

**INVESTIGATION OF WHITEWATER
DEVELOPMENT CORPORATION
AND RELATED MATTERS**

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**SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS**

ADMINISTERED BY THE

**COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FOURTH CONGRESS**

SECOND SESSION

VOLUME XVI

ON

**THE INQUIRY INTO WHETHER IMPROPER CONDUCT
OCCURRED WITH RESPECT TO THE OPERATION,
INVESTMENTS, AND ACTIVITIES OF WHITEWATER
DEVELOPMENT CORPORATION, MADISON GUARANTY
SAVINGS & LOAN, CAPITAL MANAGEMENT
SERVICES, AND RELATED MATTERS**

FEBRUARY 13, 14, 15, 16, 19, 20, 21, 22, 23, AND 26, 1996

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



**INVESTIGATION OF WHITEWATER
DEVELOPMENT CORPORATION
AND RELATED MATTERS**

DEPOSITIONS

BEFORE THE

**SPECIAL COMMITTEE TO INVESTIGATE
WHITEWATER DEVELOPMENT CORPORATION
AND RELATED MATTERS**

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**DEPOSITION OF HELEN HERR
IN RE: S. RES. 120**

TUESDAY, FEBRUARY 13, 1996

**U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.**

Telephone deposition of HELEN HERR, called for examination pursuant to notice of deposition, at 10:30 a.m. in Room 534 of the Dirksen Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

**MICHAEL P. O'CALLAGHAN, Esq.
Majority Associate Special Counsel
LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
STEVEN H. FROMEWICK, Esq.
Minority Assistant Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.**

ALSO PRESENT: BRAD JORDAN

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P R O C E E D I N G S

MR. O'CALLAGHAN: My name is Michael O'Callaghan. I am associate special counsel with the Special Committee administered by the Banking Committee, conducting an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., and other related matters.

With me is Lou Gicale who is also a counsel with the Majority, and Steven Fromewick who is counsel with the Minority.

We are calling you today to conduct a deposition. Our first question is whether there is anyone here with you on this conference call.

MS. HERR: Yes. My husband, Brad Jordan is here just to sit in with me. That's the only person.

MR. O'CALLAGHAN: Just for the record, what's the purpose of Mr. Jordan's attendance?

MS. HERR: Just moral support, that's all.

MR. O'CALLAGHAN: Normally it is the Committee's practice to keep the contents of the

4

depositions that we conduct confidential as part of a confidential inquiry, and it is -- normally the only people who are permitted to sit in on depositions with witnesses are counsel who are advising the witnesses in that capacity.

And my first question is whether, if there is an absolute need for Mr. Jordan to be there today.

MS. HERR: Well, I just asked him to be because I was a little nervous about this and I just asked him to come. I meant to mention that to you yesterday and I forgot it.

He has no knowledge of events. I didn't even know him back 11 years ago. And he is just here to sit with me, he will not be a party to any of it.

MR. FROMEWICK: Mrs. Herr, this is Steven Fromewick, Minority counsel on. How are you today?

MS. HERR: I am fine. How are you?

MR. FROMEWICK: I am fine. Thank you. I think precisely because your husband has no knowledge of anything that took place 11 years ago would be one of the main reasons why you should do this by yourself.

1 The subjects that we will be covering are
2 confidential until such time as they are released by
3 the Committee. So, I am sure you have been through
4 this before, have you not? You have had other
5 depositions with other --

6 MS. HERR: Yes, sir.

7 MR. FROMEWICK: You got through those
8 okay?

9 MS. HERR: Yes, sir.

10 MR. FROMEWICK: Can you go for another
11 one? I think it would be easier. We wouldn't have
12 to break any rules.

13 MS. HERR: Okay, all right. I didn't mean
14 to do that.

15 MR. FROMEWICK: That's okay. We appreciate
16 you telling us, and I, for one, will be gentle.

17 MR. JORDAN: Okay, gentlemen. I am going
18 to leave.

19 MR. O'CALLAGHAN: Thank you very much,
20 Mr. Jordan. We appreciate it.

21 MR. JORDAN: Be nice to my wife.

22 MR. O'CALLAGHAN: We shall be.

1 MS. HERR: Bye.

2 Okay, he is gone.

3 MR. FROMEWICK: Now we are all alone, just
4 the five of us.

5 MS. HERR: Yes, right.

6 MR. O'CALLAGHAN: I am going to go through
7 some preliminaries with you, explain what the
8 proceedings are going to be today. And then we will
9 swear you in and we will start -- go through some
10 background questions, and get to the meat of the
11 inquiry, if that's okay with you.

12 MS. HERR: Okay.

13 MR. O'CALLAGHAN: This deposition is in
14 advance of public hearings which are likely to occur
15 later this month. There is a chance that you will be
16 asked to testify at those hearings.

17 We are going to ask you a series of
18 questions today. We will ask you to testify under
19 oath. If you don't understand a question, please let
20 either me, Mr. Fromewick or Mr. Gicale know and we
21 will be happy to rephrase them. Also, if you need a
22 break at any time, please let us know as well.

1 MS. HERR: Okay.

2 MR. O'CALLAGHAN: With us today, as I
3 mentioned earlier, is the stenographer who is
4 preparing a record of questions and answers. The
5 deposition will be treated as Committee confidential
6 until the commencement of the hearings.

7 Prior to the hearings, you will receive a
8 letter from the Committee telling you that you may
9 come to the Senate to review the transcript of your
10 deposition, make note of any corrections in
11 transcription on an errata sheet. And in the case of
12 people not living in Washington, we have been
13 providing witnesses with copies of the deposition
14 transcripts to make corrections, in Arkansas. And we
15 would be happy do that at your request.

16 In addition, if you are called to testify
17 at a hearing, we will automatically send you a copy
18 of the deposition for your review before the
19 hearings.

20 MS. HERR: Okay.

21 MR. O'CALLAGHAN: You may be represented by
22 counsel today. Are you represented by counsel?

1 MS. HERR: No, I am not.

2 MR. O'CALLAGHAN: Okay. And you understand
3 that you are entitled to representation by counsel;
4 is that right?

5 MS. HERR: I do understand.

6 MR. O'CALLAGHAN: If you want to object to
7 the form of any questions today, those will be noted
8 for record, and any other objections on the grounds
9 of privileged communications you had or with regard
10 to the relevance of the question, the procedure we
11 have in place is that the Committee Chairman will
12 rule on those objections where the witness refuses to
13 answer a question.

14 MS. HERR: Okay.

15 MR. O'CALLAGHAN: During our phone
16 conversations of yesterday, I had discussed with you
17 that we would have a court reporter today and I asked
18 you if you agreed to being sworn in via telephone by
19 the court reporter who is here with us in Washington,
20 and you said you agreed with that. Do you still
21 agree with that?

22 MS. HERR: Yes, I do.

1 MR. O'CALLAGHAN: Would you please swear
2 the witness.
3 Whereupon,

4 HELEN HERR
5 was called as a witness and, having first been duly
6 sworn, was examined and testified as follows:

7 EXAMINATION

8 BY MR. O'CALLAGHAN:

9 Q State and spell your full name for the
10 record.

11 A Helen Herr, H-e-r-r, no middle name.

12 Q Did you speak to anyone prior to this
13 deposition with regard to the deposition?

14 A Well, just the people in my office and my
15 friends.

16 Q Did you discuss with anyone what the
17 substance or what the anticipated substance of your
18 testimony would be?

19 A No.

20 Q Have you spoken with anyone in the White
21 House with regard to the deposition?

22 A No, I haven't.

10

1 Q Did you take any steps to prepare for this
2 deposition?

3 A No, I didn't.

4 Q Did you review any documents?

5 A No, I don't have any documents. I did make
6 a few -- just personal notes.

7 Q Okay. Anything else other than that?

8 A No, sir.
9
10

11 Q What is your present business address?

12 A It is U.S. Army Corps of Engineers --

13 MR. FROMEWICK: Speak up, please, I didn't
14 hear that.

15 THE WITNESS: U.S. Army Corps of Engineers,
16 Post Office Box 867, Little Rock, the zip is 72203.
17 The street address is 700 West Capital Avenue, Little
18 Rock, and I am in room 6527.

19 BY MR. O'CALLAGHAN:

20 Q What is your present position?

21 A I am a realty specialist in the real estate
22 division.

1 Q How long have you been with the U.S. Army
2 Corps of Engineers?

3 A Almost four years; it will be four years
4 the first of April.

5 Q And where were you employed previous to
6 that?

7 A Immediately previous to that, I wasn't
8 employed, but prior to that, I was employed at
9 Arkansas State Building Services, from 1976 to --
10 through 1989.

11 Q What was your position with the state
12 building services?

13 A My position was leasing administrator.

14 Q During the period of January 1983 through
15 October of 1987, were you working in the capacity as
16 a leasing administrator for the state building
17 services?

18 A Yes, I was.

19 Q Who did you -- did you supervise anyone
20 during that time period?

21 A Yes.

22 Q And who did you supervise?

1 A I supervised three realty specialists and
2 one realty clerk.

3 Q What were their names?

4 A Morris Patterson, his title was leasing
5 supervisor; Carl Brooks was a leasing specialist; and
6 Margaret Martin; and then a couple of secretaries
7 came and went during that period of time, and I don't
8 remember exactly who they were.

9 Q I am having a little trouble hearing you.

10 A I'm sorry.

11 Q That's okay. I don't think it is any fault
12 of yours; we are getting a little feedback from the
13 speakerphone you are using.

14 A Oh, okay.

15 Q So we are clear, is it Morris or Maurice?

16 A Morris spelled M-o-r-r-i-s. It is probably
17 my accent.

18 Q Actually I believe it is the speakerphone.
19 It could be both.

20 During that time period, who did you report
21 to? Again that's January 1983 through August --
22 October 1987, excuse me.

1 A Paul Mallard was the director, at least
2 during '83 and '84. And I don't know if -- we may
3 have had a change of director before '87; Chris
4 Burrow became the director sometime in there, but I
5 am not exactly sure of the date.

6 Q Was Mr. Mallard still director in 1985?

7 A Yes, he was.

8 Q Okay. How did you come to be employed at
9 the state building services?

10 A In 1976, I had worked in a family business,
11 in a real estate business, and state building
12 services was a new agency, had just been created by
13 the Arkansas legislature that year, to oversee
14 leasing of facilities and building of state buildings
15 for state agencies. And I had a friend who was a
16 member of the Arkansas legislature at that time and
17 he told me about the opening, and I applied for it
18 and went to work shortly after that.

19 Q What was the name of your friend at the
20 legislature?

21 A Cecil Alexander.

22 Q During the time you were with the Arkansas

1 State Building Services, were you aware of any leases
2 that the state entered into with Madison Savings &
3 Loan Association?

4 A Yes, I was.

5 Q What leases are you aware of?

6 A The state agency called Arkansas
7 Development Finance Authority, ADFA, leased space
8 from Madison, and later, after that lease, there was
9 a lease with the Arkansas revenue department. Those
10 are the only two that I remember.

11 Q Are you aware of any leases with -- that
12 the state had with Madison Financial Corporation?

13 A No. I -- well, now, I don't remember if
14 the name on the lease was Madison Financial
15 Corporation or not. I don't recall that. I thought
16 it was Madison Guaranty Savings & Loan but --

17 Q Those are the ones you are familiar with?

18 A Yes, sir.

19 Q Did you have any involvement in the leasing
20 process for ADFA?

21 A Yes, I did.

22 Q Could you give me a general overview of

1 what your involvement was? Then I will ask you some
2 specifics.

3 A Now I want you to remember that was 11
4 years ago.

5 Q Yes, ma'am, we appreciate that.

6 A As I recall, we had solicited the market in
7 Little Rock, for space for ADFA. They had been
8 housed in the Donahue Building, and needed to have
9 additional space, and that was our practice, was to
10 solicit the market. And as I recall, we may have
11 advertised in that particular instance for
12 solicitations, and we had received solicitations.

13 And we were in the process of reviewing the
14 solicitations that we had -- the proposals that we
15 had received in response to our solicitation. And,
16 Mr. Mallard told me about the space that Madison
17 had. And he asked that we look at that space for the
18 agency and we did.

19 Q And had Mr. Mallard learned about that
20 space independent of proposals that were sent in?

21 A Yes, sir, I believe so.

22 Q How did he find out about it?

1 A Well, I'm not sure of that. He just told
2 me that he had found out about it. As I recall, the
3 first time I heard about it, Mrs. McDougal was in
4 Mr. Mallard's office.

5 Q When did that meeting occur?

6 A I really don't recall the specifics, but it
7 would have been sometime around January maybe, or
8 February of that year -- I guess that would have been
9 '84. Am I right? Am I getting my year right? You
10 are looking at documents and I am not, so --

11 Q Yes. Is it your recollection that the
12 meeting occurred after you had already received some
13 proposals after the solicitation?

14 A Yes, sir.

15 Q Did you attend that meeting?

16 A As I recall it, I was called into the
17 office and told about the space.

18 Q What do you recall about whatever you
19 recall about that meeting?

20 A I just recall that he said that the
21 McDougals were developing a building on South Main,
22 and that they would have additional space to lease

1 that their savings and loan could not fill up. And
2 Mr. Mallard asked that I take one of our architects
3 and that we look at the space with representatives
4 from ADFA, and we did.

5 Q Do you know how the meeting came about?

6 A No, sir.

7 Q How long were you in the meeting for?

8 A Oh, I don't remember that.

9 Q Did anyone else participate?

10 A I don't recall that they did.

11 Q During that meeting, was there any mention
12 made of Mrs. McDougal's relationship with the
13 governor or with Mrs. Clinton?

14 A No.

15 Q Was this an unusual procedure with regard
16 to how state building services usually conducted
17 their business?

18 A Not unusual. We were not -- we -- our law
19 did not require any set bidding procedure for the
20 solicitation of office space. And from time to time,
21 different people would come to see the director and
22 tell of buildings that they were developing. They

1 would come to see the director to get the state to be
2 interested in leasing their property.

3 Q Before the meeting with Mr. Mallard and
4 Mrs. McDougal, had Madison submitted a proposal?

5 A Not that I recall.

6 Q After the meeting with Mr. Mallard and
7 Mrs. McDougal, what was the next step you took with
8 regard to acquiring lease space for the -- for ADFA?

9 A Well, as I recall, I contacted Wooten Epes
10 who was the director of the agency, and he had a
11 gentleman in his office that was participating with
12 the people in my office in this whole process of
13 looking for suitable space for them. Mr. Anderson, I
14 believe was the gentleman's name.

15 Q Was that C.E. Anderson?

16 A Yes, sir. And as I recall, we went down
17 and looked at the building, maybe several of us, I
18 don't remember exactly what -- the exact sequence of
19 events I cannot recall, but I do know we went to look
20 at the facility with the people that we would be
21 housed in the facility. And then steps were taken
22 for floor plans to be developed, because Mr. Epes was

1 very concerned about the adequacy of the space and
2 how much space was there.

3 Q He was concerned that there might not be
4 enough space?

5 A Yes, sir.

6 Q During that first trip, did anyone express
7 any other concerns with the space or for the site?

8 A Well, yes. The agency, Mr. Anderson
9 specifically, was very negative about the location.
10 He did not want to move the -- to that part of Main
11 Street. At that time there was not a lot of
12 development down there, and it was -- the
13 neighborhood had deteriorated. And he was just very
14 concerned about it, didn't want his employees down
15 there.

16 Q Were there any concerns expressed about the
17 convenience of where it was located with regard to
18 other people they had to do business with?

19 A Okay. I am sure that was part of the --
20 part of his objection to the space but I don't recall
21 specifically that.

22 Q During your first visit to the building,

20

1 what were your -- what was your reaction to the
2 appropriateness of that space for the Arkansas
3 Development Finance Authority?

4 A Well, at that particular time, the building
5 had not been developed, and the space was not
6 developed. And I too was concerned that the space
7 was not large enough, because the main reason that
8 they were relocating from their other facility was
9 that it wasn't big enough, and Mr. Epes wanted more
10 space and wanted the ability to expand.

11 And Mr. Epes had another site that he
12 favored from our previous solicitations. And I
13 simply have thought about that, and I knew we were
14 going to do this, and I don't remember which one it
15 was that he preferred, because it's been, of course,
16 years since I saw any of those files.

17 MR. FROMEWICK: Excuse me, I'm sorry. I
18 didn't catch what you said. Did you say "which one
19 he preferred," or "which one we preferred"?

20 THE WITNESS: Mr. Epes. I don't recall
21 which one Mr. Epes preferred. And it was our -- we
22 always wanted the agency to be pleased with its

1 space, because they are the ones that had to operate
2 out of it, and they are the ones that needed to be
3 happy with it.

4 BY MR. O'CALLAGHAN:

5 Q But you can't recall right now what the
6 other space was that Mr. Epes preferred?

7 A No, I really don't.

8 Q Was Mr. Brooks with you when you went to
9 look at the Madison site?

10 A I don't remember if he was or not.

11 Q Did he work with you on finding appropriate
12 space for ADFA?

13 A He had worked on it earlier with
14 Mr. Anderson, and I think he actually received the
15 solicitations and had done some of the preliminary
16 work on it.

17 Q Was there a reason why you weren't involved
18 initially?

19 A No particular -- no particular reason.

20 Q Was there anyone else from the agency who
21 worked on this particular project?

22 A Well, in the leasing office, I think not,

22

1 but we did have an architect, one of the men in our
2 architectural division worked on it. His name was
3 Glenn Cox.

4 Q Did he work specifically on issues related
5 to the Madison space, or was he being used to look at
6 issues involving various different spaces?

7 A Well, he normally worked with us on all of
8 the spaces. But this particular time, I recall he
9 got involved in developing the floor plans, in
10 assisting in developing the floor plans, to lay out
11 the floor plan the way Mr. Epes wanted it.

12 Q I would just like to take a step back to
13 ask you if you recall how the need for new space
14 first was presented to state building services by
15 ADFA.

16 A Well, I don't recall specifically but our
17 normal procedure was that state agency director would
18 contact us, usually would follow it with a written
19 request, stating the need and why their current
20 facility was no longer adequate. And then we would
21 assess that situation, and see if we concurred before
22 we agreed that they needed to relocate.

1 Q Okay. And did you have any participation
2 in any kind of correspondence relating to that aspect
3 of ADFA getting new space?

4 A I assume that I did at the time, but of
5 course, I don't -- I do not recall. There is a
6 letter about that. As I say, it's been a long time
7 since I had access to those files.

8 Q Do you recall when the first overture was
9 made by ADFA to state building services with regard
10 to their desire to get new space?

11 A As I recall, the first --

12 Q When it first occurred, when they first
13 approached building services.

14 A I think maybe it was in the fall of that
15 year, '83, possibly.

16 Q I've got a document here which obviously
17 you don't have in front of you, and to explain to you
18 the reason why we couldn't provide you with this
19 document previous to the telephone deposition, it is
20 a result of the confidentiality agreement which the
21 Committee has entered into with the various entities
22 we have subpoenaed for documents. What I will

1 endeavor to do is describe the document as fully as I
2 can for you to get a sense of what the document is,
3 and then I will ask you a couple of questions about
4 it.

5 A Okay.

6 Q The first set I will ask you about is, to
7 help you place in time perhaps more clearly, is the
8 first time the state building services became aware
9 of ADFA's need for new space.

10 A Okay.

11 Q I have in front of me a two-page document
12 on Arkansas State Building Services letterhead; the
13 Bates stamp numbers are DKSX 016540, and DKSX
14 016541. And it is a -- states it is a memorandum.
15 It is to Phyllis Glaze, Agent Barnes, Flynn Quake and
16 Anderson from Carl L. Brooks, leasing specialist,
17 Arkansas State Building Services. The date is June
18 23, 1983.

19 And then the subject says it's lease space
20 in the Arkansas Gazette Building for Arkansas Housing
21 Development. And then there is a number of
22 paragraphs with some text in it, with regard to -- it

1 is actually very difficult to read.

2 But, with regard to just the general
3 subject matter of the memorandum, that I just read to
4 you, does that refresh your recollection as to
5 whether any -- whether the state building services
6 had been informed in June of '83 or by June of '83 of
7 the need for new space for Arkansas Housing
8 Development Agency?

9 A Well, I guess we were.

10 I didn't recall that it had gone on that
11 long, but sounds to me like that memorandum was one
12 of maybe several like it, that would have been --
13 that would have gone out to interested parties. But
14 I don't remember for sure, but I do recall that there
15 were several different interested real estate people.

16 Q Okay, I will read the last two lines of
17 this letter --

18 A Okay.

19 Q -- mainly because part of the problem is it
20 is very difficult to read.

21 Actually before I do that, there are some
22 portions of it which describe different aspects of a

1 potential lease, it appears, including an item which
2 refers to the length of the term of the lease, and
3 also there appears to be a rate per square feet for
4 lease including all utilities and janitorial
5 services. And then it reads "after meeting with your
6 client if they indicate an interest please let us
7 know. Then we will proceed to finalize this
8 project." Those are the last two lines which I
9 read.

10 And again, was that -- does that appear to
11 be more of a negotiation type document, or would that
12 be a document of solicitation?

13 A No, that sounds more like a negotiation,
14 but --

15 Q Are you aware of any negotiations that were
16 being conducted by state building services and the
17 Arkansas Gazette Building in or around June of 1983
18 for space for Arkansas Housing Development Agency?

19 A I don't recall specifically that building.
20 I knew there were several places -- I say several, it
21 may have been only a few places that we looked at for
22 space. And I know we did -- we did look at that

1 building but I don't recall the specifics of it.

2 Q Did you ever personally visit the Gazette
3 Building?

4 A I had at times seen that -- seen the space,
5 but whether it was at this moment of -- on this
6 particular agency, I don't recall.

7 Q Do you recall whether the agency took a
8 look at any space located in the Old World Plaza?

9 A Old World Plaza. Yes, I recall looking at
10 that particular space.

11 Let me make one point with you here. It
12 might help.

13 Q Sure.

14 A At that particular time in Little Rock, the
15 market was pretty soft. And so we got requests from
16 all land owners and real estate agents to look at
17 office space from time to time.

18 So probably at -- I had seen, and the
19 members of the staff, we had seen all the vacant
20 office space in Little Rock at least once and
21 sometimes twice.

22 But exactly, you know, when, I don't

1 recall.

2 Q Okay, and with regard to you saying that
3 the market was soft in Little Rock at this time --

4 A As I recall, in the early '80s, there was
5 quite a bit of space available.

6 Q So were there terms more accessible during
7 this time for people leasing space than there were at
8 previous times?

9 A Yes.

10 Q So was the market pretty competitive at
11 this time?

12 A Yes.

13 Q Was the -- with regard to the market, was
14 the leasing for the Arkansas Development Finance
15 Authority, which was earlier known as Arkansas
16 Housing Development Agency, with regard to the
17 market, was that considered to be a large lease?

18 A I recall -- and I see you are looking at
19 the --

20 Q I am not looking at anything. I am asking
21 you, during the time period between 1983 and 1984,
22 whether this was a big leasing contract to have ADFA

1 move into your space?

2 A It was considered to be a good size lease,
3 yes.

4 Q The document I just described to you was
5 dated June 1983. I have another document here which
6 I would like to describe for you, on Harold Thompson
7 Company's letterhead, dated September of 1983. It is
8 addressed to Ms. Helen Vowell, leasing administrator;
9 subject is office lease for the Department of
10 Housing.

11 And then, it reads "proposal to lease
12 approximately" -- difficult number to read but looks
13 like "6500 square feet of office space located Old
14 World Plaza located corner of West 4th and North
15 Broadway, North Little Rock, Arkansas." And then it
16 is signed by Daryl Thompson, owner, Old World Plaza.

17 Do you recall receiving a proposal from Old
18 World Plaza building?

19 A I really didn't, until you mentioned it
20 just now and read that, but I do recall that Old
21 World Plaza had some space that they, from time to
22 time, were interested in leasing to the state.

1 Q And just so the record is clear, I had
2 stated earlier the letter was addressed to Ms. Helen
3 Vowell. That was a previous name that you had?

4 A Yes.

5 Q Was that -- is that a maiden name or
6 previous married name?

7 A That was a married name. Helen Herr is my
8 original name.

9 Q You don't recall any proposals given by Old
10 World Plaza in connection with ADFA?

11 A I don't recall the specifics of it.

12 Q But do you recall one being made?

13 A Not until you brought it up just now. I
14 didn't remember that they were one of the ones, no.

15 Q Do you recall whether you looked at the Old
16 World Plaza space for ADFA?

17 A Well, we looked at it, and I assume that it
18 was for ADFA, but I don't recall specifically.

19 Q Do you recall whether you had any
20 impressions about whether that space was appropriate
21 or met ADFA's needs?

22 A Yes. Any time that particular space came

1 available, it was discussed that the location of it
2 was not as desirable as others.

3 Q The Old World Plaza location?

4 A Right.

5 Q How was the desirability of that location
6 versus the Madison building?

7 A Now, you cut out on me a little bit. I
8 didn't on -- are you saying how did those two
9 compare?

10 Q Correct.

11 A Well, as far as distance is concerned, they
12 were probably about the same. But as I recall, the
13 layout of Old World Plaza was maybe upstairs, over
14 another office. It may have not even been
15 handicapped accessible but I don't recall for sure.
16 And about that time, we were very aware of trying to
17 lease facilities that were handicapped accessible.

18 But, I do know that the agency did not --
19 there was something about that space that they and we
20 didn't think was quite right.

21 Q During this period, let's say from July
22 1983 through April of 1984, did you have any contact

1 with anyone in the governor's office?

2 A No.

3 Q Was there anyone in the governor's office
4 who acted as liaison between state building services
5 and the governor's office?

6 A On other matters, yes, we had a liaison.

7 Q Who was that?

8 A Well, you know, I really don't recall who
9 the liaison was about that -- during that period of
10 time. We had several different ones through the
11 years.

12 Q Do you have a recollection of any of the
13 people that may have been liaisons between the '83-87
14 time period, 1983 through 1987?

15 A I don't recall specifically. There was
16 someone out of the governor's office who always
17 attended all of our meetings, and then, of course,
18 Mr. Mallard dealt with Betsey Wright on issues,
19 different kinds of issues.

20 Q What type of issues did Mr. Mallard deal
21 with Ms. Wright on?

22 A Oh, just all administrative type issues. I

1 think she was his contact during a lot of that.

2 Q Did Mr. Mallard have any contact with
3 Ms. Wright with regard to the ADFA leasing project?

4 A I don't know that.

5 Q Did he have contact with anyone in the
6 governor's office with regard to ADFA's search for
7 new lease space?

8 A Well, I assume that he did.

9 Q Why do you assume that? I don't know how
10 the relationships were set up; if you would explain
11 to me why that would have been --

12 A Because Mr. Mallard was an appointee of the
13 governor, and all the agency directors had contact
14 with the governor's office, frequent contact with the
15 governor's office.

16 Q Was Mr. Mallard a personal friend of the
17 governor's?

18 A I think he was, yes.

19 Q During the 1983-1984 time period, are you
20 aware whether anyone at the governor's office
21 expressed any preference for what office space that
22 ADFA should move into?

34

1 A All I know is what -- is my conversations
2 with Paul Mallard.

3 Q What did Mr. Mallard tell you?

4 A When I presented the objections from
5 Mr. Epes about the Madison space, he said that the
6 governor's office wanted us to lease that space, that
7 they were interested in -- as I recall, he said they
8 were interested in helping the development in the
9 quarter area, South Main, and that the McDougals were
10 friends.

11 Q Did he give any other reasons?

12 A No, not that I recall.

13 Q And this was in -- in your -- with regard
14 to your recollection in response to an objection from
15 Mr. Epes about the Madison space?

16 A Yes.

17 Q Do you recall when that -- what time period
18 this occurred?

19 A No. I do recall that Wooten wrote a letter
20 with specific objections, that he and I had had a
21 telephone conversation, and I told him that he needed
22 to give me something in writing. And he did. Do you

1 have that memo with you?

2 Q Yes, I will ask you some questions about
3 that in a few minutes. I will continue -- I need to
4 ask you a few more questions about your conversation
5 with Mr. Mallard.

6 With regard to his representation that the
7 McDougals were friends of -- was that Governor
8 Clinton and Mrs. Clinton?

9 A Yes, he just said the Clintons and
10 McDougals were friends.

11 Q Did he go into any further detail about
12 what the nature of the relationship was?

13 A No.

14 Q Did he make any mention of any business
15 relationship between the Clintons and the McDougals?

16 A No, he didn't.

17 Q Did Mr. Mallard express to you his opinion
18 as to the suitability of the space, of the Madison
19 building, for ADFA?

20 A I think he -- as I recall, he thought it
21 would be a nice facility. He seemed interested in
22 seeing the agency lease the space.

1 Q Have you ever visited the space?

2 A When is this?

3 Q Correct.

4 A As I recall, he had been down there, and
5 whether he went along on that first trip with -- when
6 I went, I don't recall. But I'm sure he had been
7 down there.

8 Q Did Mr. Mallard know the McDougals?

9 A Yes.

10 Q How did he know the McDougals?

11 A I don't know how he knew the McDougals, but
12 he indicated to me that they were friends.

13 Q They were friends of his?

14 A Yes.

15 Q Did he have any business dealing with the
16 McDougals?

17 A I don't know that.

18 Q Did he do any banking at Madison?

19 A I don't know that either.

20 Q With regard to Mr. Mallard's visiting the
21 Madison building, to your knowledge, were those
22 visits in connection with scoping the site for ADFA,

1 or was it for other purposes?

2 A I don't know.

3 Q Do you know if he specifically went down
4 there to look at the site as a possible space for
5 ADFA?

6 A Well, as I recall, he did go to the space
7 and look at it.

8 Q Did Mr. Mallard inform Governor Clinton of
9 Mr. Epes's objections to moving into the space?

10 A I don't know.

11 Q Well, with regard to the meeting, were --
12 or the conversations you had with Mr. Mallard about
13 Mr. Epes's objections and I believe you stated
14 earlier that the governor's office, that Mr. Mallard
15 told you the governor's office wanted to lease that
16 space, and that the McDougals and the Clintons were
17 friends, was it your impression that Mr. Mallard had
18 already spoken to the governor about this?

19 A He didn't say who he had talked to.

20 Q So you don't know if he had already spoken
21 with the governor?

22 A No, I don't know.

1 Q Was this -- did this conversation occur
2 before or after Mr. Epes wrote a letter with regard
3 to the ADFA not wanting to move into the Madison
4 space?

5 A As I recall it, it was after I received the
6 letter from Wooten.

7 Q I will describe a document which I believe
8 is the letter you are referring to.

9 A Okay.

10 Q It's a one-page document, DKS N 016527, on
11 Arkansas Housing Development Agency letterhead and
12 dated March 5, 1984, addressed to Ms. Helen Vowell,
13 state building services. And there is a signature
14 which says Wooten Epes on the bottom. And there is a
15 signature which -- it says Wooten Epes under the
16 signature and above that it reads partially "dear
17 Helen, ADFA has decided to reject the proposal of
18 Madison Guaranty to provide office space at 1501 Main
19 Street."

20 Do you recall receiving a letter from
21 Mr. Epes around March 5, 1984 of this nature?

22 A Yes.

1 Q And it is your recollection that your
2 conversation with Mr. Mallard occurred after the
3 receipt of this letter?

4 A As I recall, it did occur after I received
5 the letter.

6 Q Did Mr. Mallard have any meetings with
7 Mr. Epes about ADFA's decision to reject the proposal
8 of Madison Guaranty?

9 A I don't know if he did or not.

10 Q Did you have any -- you stated earlier that
11 you had spoken to Mr. Epes about submitting this
12 letter?

13 A Yes.

14 Q Had you told Mr. Mallard that you had that
15 conversation?

16 A I'm sure that I did, because I told
17 Mr. Mallard at that time, the agency was -- they were
18 objecting to leasing the space.

19 Q And what was your -- what was his initial
20 reaction to your telling him that they wanted to
21 reject the space?

22 A I don't recall exactly what was said at

40

1 that time. I don't recall specifics.

2 Q Do you have a general recollection whether
3 he was disappointed or pleased, or one way or the
4 other?

5 A Well, he felt that the space should
6 continue to be -- look at the space with a view
7 toward leasing it.

8 Q When did you first become aware that
9 Mr. Mallard was friends with the McDougals?

10 A Well, I guess he told me that. We were --
11 he and I had many conversations, and I think -- you
12 know, I don't recall at what period he told me that
13 he and the McDougals were friends, but I did know
14 that.

15 Q Do you remember, was that before or after
16 the March 5th letter from Mr. Epes?

17 A Oh, that would have been before.

18 Q Did he mention the interests that the
19 governor's office had in leasing that space before
20 Mr. Epes's letter?

21 A I don't recall specifically. I just told
22 Wooten that he was going to have to speak to a higher

1 authority than I was on the issue.

2 Q And was that because you had knowledge that
3 the governor's office was interested in this lease?

4 A Yes.

5 Q I realize it was a while ago, Ms. Herr, but
6 do you recall when you first knew that the governor's
7 office had an interest in this lease?

8 A No, I don't recall specifically.

9 Q Can you put it within a time frame as to
10 when the process started, whether it was before you
11 went to look at the site or after you looked at the
12 site?

13 A Well, it probably would have been before,
14 because it was general knowledge that the McDougals
15 were friends with the present administration.

16 Q At any time during this time period, were
17 you aware that the Clintons had a business
18 relationship with the McDougals?

19 A No.

20 Q After your meeting with Mr. Mallard, did
21 you have any conversations with Mr. Epes with regard
22 to that conversation? I am talking about the

1 conversation you had with Mr. Mallard with regard to
2 Mr. Epes's objections.

3 A I probably did talk back to Mr. Epes. We
4 talked several times about the issue and exactly when
5 and what was said, I don't recall.

6 Q Do you recall that you reported back to
7 Mr. Epes that Mr. Mallard was in favor of leasing the
8 Madison space?

9 A Yes, I would have told him that.

10 Q Did you tell Mr. Epes that one of the
11 reasons cited by Mr. Mallard was that the McDougals
12 were friends of the Clintons?

13 A I don't know if I put in it those exact
14 words or not. But I did tell Mr. Epes that I felt
15 that the governor's office wanted us to lease the
16 space, and that I had done all I could do to express
17 his objections.

18 Q Okay. And did you relate to him the fact
19 that the McDougals and the Clintons were friends as
20 part of that conversation?

21 A I don't know if I did or not. But, this is
22 something that Mr. Epes would have known himself.

1 Q Why is that?

2 A Because in a state as small as Arkansas,
3 and everybody -- the involvement in the campaigns
4 that had been run before, I just felt Mr. Epes
5 probably knew that. He was -- he had participated in
6 campaigns for the Clintons himself.

7 Q Did Mr. Epes express to you the reasons why
8 he didn't want to move into the Madison Guaranty
9 space?

10 A Yes.

11 Q What were those reasons cited?

12 A As I recall, the major -- there were two
13 major issues: the number of square feet available
14 and the way that the space would be designed, and the
15 issue of safety of the employees.

16 Q Were there any cost concerns that he had?

17 A Yes, we did talk, of course, about the
18 cost. And again, I haven't seen the documents in a
19 long time, but as I recall, the Madison space was not
20 flagrantly higher than the other proposals. It may
21 have been a little bit more expensive per square
22 foot, which of course relates to the cost, but I

1 don't recall that it was. It seems to me though it
2 was in the competitive range.

3 Q Was that price consistent with its
4 location?

5 A Well, of course there may not have been
6 anything in that particular area to compare to.

7 Q Okay. Well, if you could just give me a
8 general idea; you said it wasn't flagrantly higher
9 but it might have been higher than the other
10 proposals. But with regard to the value to the
11 agency of the location and also the amount of space
12 and quality of space, how would that price match up
13 to the other proposals that you recall?

14 A As I recall, the quality of the space as
15 presented was good, and did justify the cost per
16 square foot. And it was an arguable issue about the
17 location.

18 Q Why is that?

19 A Because of its address on South Main
20 Street. But it was not out of line in any of the --
21 really, in any of those areas.

22 Q Okay, I am referring you again to the March

1 5, 1984 letter, apparently from Mr. Epes to you. And
2 it says "we would like to stay in a location
3 downtown, preferably within walking distance of our
4 attorneys." Do you recall that being a concern
5 expressed by Mr. Epes?

6 A I didn't remember that until you mentioned
7 it.

8 Q Okay. After you told -- did you tell
9 Mr. Epes that Mr. Mallard was of the opinion they
10 should rent the Madison space after the rejection
11 letter?

12 A Yes.

13 Q What was Mr. Epes's reaction?

14 A Well, as I recall, he was still of the
15 opinion that the space was not what he wanted. And
16 as I told you earlier, there was a specific site that
17 he favored; I did not recall that it was the Arkansas
18 Gazette Building, but I don't recall what it was.
19 There were -- there were several spaces that were
20 looked at, and he did have a specific space that I --
21 assuming since you mentioned his objection being
22 within walking distance, must have been in the

1 immediate vicinity of downtown.

2 Q Let me -- there is mention of a space in
3 your March 5 letter. It may not be the same space
4 you are referring to but this might help you
5 remember. The second paragraph begins "we initially
6 authorized you to negotiate a lease at Brookwood
7 Drive for an anticipated net rent of 4.50 per square
8 foot."

9 Does that refresh your recollection at all,
10 or is that a different space?

11 A Yes, it does.

12 Q Is that the space you are referring to?

13 A Well, maybe it was, but that certainly
14 wasn't in the downtown area. That location wouldn't
15 have -- wouldn't have -- locationwise wasn't --
16 wasn't different really from Madison.

17 Q Was there a proposal from a building called
18 the Tower Building?

19 A Probably there was, because they did have a
20 lot of space at that time, and we were leasing space
21 at the Tower Building in that time frame.

22 Q Was that one of the alternatives that was

1 being considered at the time of March 4th, do you
2 know?

3 A I don't recall specifically that it was.

4 Q Okay. Do you recall whether that was the
5 space that Mr. Epes preferred?

6 A No, I don't recall.

7 Q Okay. With regard to the space, square
8 feet available considerations, was that one of the
9 more pressing concerns that Mr. Epes had, or one of
10 the more severe?

11 A Yes, I think to him that was very
12 important.

13 Q And did you agree with that?

14 A Yes.

15 Q And could you express precisely what his
16 specific concerns were with regard to the square
17 footage of the Madison building?

18 A He didn't like the way the space would have
19 to be designed to get the number of offices that he
20 had to have into the space. It was going -- as I
21 recall it, it was going to make several small
22 offices, and we had many discussions with our

1 architect about the design of the space and how it
2 might better fit the agency.

3 Q And in the end he decided to reject it
4 because he didn't think the proposals met the
5 agency's needs?

6 A Right.

7 Q That's even after speaking with the
8 architect?

9 A Yes.

10 Q Did he express concerns about the agency's
11 possibility of expanding in the near future?

12 A Yes, that was part of the consideration.

13 Q Did he say what he was basing that
14 anticipated increase in the staff of the agency on?

15 A I don't remember specifically what he had
16 in mind about the agency expanding, but I do recall
17 that that was important to him.

18 Q Did he mention that there was any
19 legislation being developed that would expand the
20 agency's authority?

21 A I vaguely remember something about that but
22 that's a vague recollection.

1 Q Did you make any recommendations to
2 Mr. Epes after you told him that Mr. Mallard was of
3 the mind that he wanted ADFA to go ahead and rent the
4 Madison space?

5 A As I recall, the only thing that I would
6 have said to him then was that I had done all I could
7 do in presenting his objections, and that if he had
8 more concerns, that he would have to go higher than
9 my office. And as I recall, he said he would.

10 Q Where did he say he would go?

11 A I assumed he meant he would go to the
12 governor's office.

13 Q Did he ever directly contact Mr. Mallard
14 with regard to his concerns?

15 A I don't know if he did or not.

16 Q Did he in turn go to the governor's office
17 to express his desire not to move into the Madison
18 space?

19 A I don't have direct knowledge of that. I
20 have heard since then that yes, he did --

21 Q What did you hear?

22 A -- but a lot of it is just what I read in

1 the newspaper.

2 Q Outside of newspaper accounts, did you hear
3 he had a meeting with the governor with regard to
4 this issue?

5 A I don't know if I ever heard that, no.

6 Q Did you ever have any conversations with
7 Mr. Mallard perhaps about Mr. Epes's contacting the
8 governor about Mr. Mallard's decision to put them in
9 that building?

10 A I don't recall.

11 Q When you presented Mr. Mallard with
12 Mr. Epes's concerns and ADFA's decision -- at the
13 time I believe it was AHDA's discussion to reject
14 Madison Guaranty -- did you concur with Mr. Epes's --
15 did you agree with them, I guess is an easier
16 question?

17 A Did I concur? I am thinking about that
18 answer.

19 As I said, it was an arguable issue.

20 Q Between the time that Mrs. McDougal first
21 came in to meet with Mr. Mallard and the time of the
22 rejection of the Madison proposal, how much time had

1 elapsed? I guess the rejection was March 5th.

2 A Oh, maybe two, three months, something like
3 that.

4 Q Did the Arkansas Housing Development Agency
5 eventually enter into a lease with Madison Guaranty
6 Savings & Loan?

7 A Yes.

8 Q Do you recall when that occurred?

9 A As I recall, it was maybe April, May of
10 that year.

11 Q Okay, the rejection letter was March 5th
12 from Mr. Epes --

13 A Yes.

14 Q -- addressed to you?

15 And then I have in front of me a copy after
16 lease which I will describe to you. It is a
17 four-page document which reads "Arkansas State
18 Building Services standard lease form 1," and then it
19 says lease term 7/1/84 to 6/30/89, annual rent
20 \$58,242, square feet is 6852, rate is 8.50 per square
21 feet, type is OF. And it says it is a new lease, and
22 then it says "work by PV County 60 agency 3895 site

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1 01."

2 I am not going to read the whole thing to
3 you, I am just going to identify the date that
4 appears on the front of it.

5 A Okay.

6 Q And signatures on the back page for right
7 now "state of Arkansas lease agreement. This lease
8 made this 1st date of April 1984, by which Madison
9 Financial Corporation leases to state of Arkansas, by
10 Arkansas State Building Services for the use of
11 Arkansas Housing Development Agency, 1501 Main
12 Street, Little Rock, Arkansas."

13 And then it -- I will read the rest of that
14 sentence where it says "or any other department,
15 board, commission or agency of the state which SBS
16 shall designate," and then it says "('agency') to
17 describe property ('premises') upon the terms of this
18 lease."

19 The front of the lease I just read, does
20 that refresh your recollection as to when AHDA
21 entered a lease with Madison?

22 A Yes.

- 1 Q It says here Madison Financial
2 Corporation.
3 A I had forgotten that.
4 Q But does that refresh your recollection as
5 to when this lease was initially entered into?
6 A Yes.
7 Q Was Madison Financial Corporation
8 associated with Madison Guaranty?
9 A Right.
10 Q Do you recall what the relationship was?
11 A No, I don't. You know, many times the
12 lessor's name on a lease might be different than the
13 people that we actually dealt with, so that I didn't
14 make any association with that.
15 Q Okay, but Madison Financial Corporation,
16 was that a McDougal corporation?
17 A Yes. Yes, it was.
18 Q And 1501 Main Street, Little Rock,
19 Arkansas, is that the Madison Guaranty Savings & Loan
20 building?
21 A Yes.
22 Q So between April 1st and March 5th, other
-

- 1 than the letter from Mr. Epes and the conversation
2 you had with Mr. Mallard, and the conversation that
3 you had with Mr. Epes, did you have any other,
4 further conversations with regard to the AHDA's
5 decision to reject the proposal of Madison Guaranty
6 or Madison Financial Corporation?
7 MR. FROMEWICK: Could you clarify, did she
8 have any further conversations with who?
9 MR. O'CALLAGHAN: With anybody on this
10 subject.
11 THE WITNESS: I am sure I did. I don't
12 recall specifics about conversations, but I'm sure
13 that there were conversations, yes.
14 BY MR. O'CALLAGHAN:
15 Q Do you recall whether there was any further
16 efforts taken by Mr. Epes not to enter into this
17 lease?
18 A The only efforts that I am aware of are the
19 ones I told you about earlier.
20 Q I am consulting my notes, trying to find
21 some notes I made with the statement you made
22 earlier --

1 A Okay.

2 Q -- with regard to the functioning of the
3 agency and how you went about finding leasing space.

4 And I believe you mentioned earlier that
5 the agency's number one priority was to find space
6 that was to the specifications and the satisfaction
7 of the agency that was going to move into the space;
8 is that right?

9 A That was not the number one priority.

10 Q What was the number one priority?

11 A Well, it is hard to say that there was a
12 number one priority, but we attempted to find the
13 best office space for the least amount of money that
14 would fit the agency's needs. Now that's kind of a
15 tall order to do, to get all of that into one neat
16 little package, but that's what we always attempted
17 to do.

18 Q And you also stated you wanted the agency
19 to be pleased with the space they were moving into;
20 is that right?

21 A Yes, absolutely.

22 Q With regard to the Madison space, was that

1 the least expensive space that the agency could have
2 moved into at that time with the proposals that the
3 state building services had received?

4 A As I recall, it was not the least
5 expensive.

6 Q Was it a space that the agency wanted to
7 move into?

8 A Repeat that question. What did you say?

9 Q Well, with your knowledge of Mr. Epes's
10 objection of the proposal, was it a space that the
11 agency wanted to move into at that time?

12 A Was the Madison space what they wanted to
13 move into?

14 Q Correct.

15 A No.

16 Q Did there come a time when AHDA entered
17 into any other leases with Madison Guaranty?

18 A Yes, as I recall --

19 Q Excuse me. For the record, Madison
20 Guaranty or Madison Financial Corporation.

21 A Yes, as I recall, they did lease some
22 additional space maybe a year later or several months

1 later. Some space in the building became available,
2 and they leased some space for expansion.

3 Q Do you recall the circumstances of how that
4 space became available?

5 A No, they had had a -- at the time that we
6 opened the space, I remember that there was another
7 tenant. And Wooten, I am sure, let it be known that
8 he really needed more space than what he was leasing,
9 and so at the first available time, they made that
10 space available to him.

11 Q Do you know who the other tenant was that
12 was in there previous to the expansion for ADFA or
13 AHDA?

14 A I don't specifically recall. I have some
15 vague recollection that it was maybe a family member
16 or something that was leasing some of that space.

17 Q A family member of the McDougals?

18 A Yes.

19 MR. O'CALLAGHAN: Ms. Herr, we have to go
20 off the record for just a couple of seconds. We have
21 someone retrieving notes for the transcription so we
22 can get transcript turned around, if you don't mind

1 waiting for a couple of seconds.

2 THE WITNESS: Okay.

3 (Discussion off the record.)

4 BY MR. O'CALLAGHAN:

5 Q Okay. I believe you just stated that the
6 other tenant, you have a vague recollection it was a
7 family member of the McDougals' that was in that
8 space in the Madison building?

9 A Yes, but that's not a specific
10 recollection.

11 Q There was a business in there?

12 A I think there was another business in
13 there, yes.

14 Q Do you know why they moved out?

15 A No.

16 Q Have you ever been told?

17 A No, I have never.

18 Q I'm sorry, I want to take one step, I
19 apologize.

20 A Okay.

21 Q I had asked you a question about meetings
22 that you had with regard to AHDA's rejection of the

1 proposal by Madison which was on March 5, 1984, and
2 then the front page of the lease is April Fools' Day,
3 April 1st, 1984, but it's got different dates on the
4 back for signature.

5 And there is just -- I meant to earlier
6 identify the people that signed the lease?

7 A Okay.

8 Q Under lessor, Madison Financial
9 Corporation, it was Paul K. Castleberry, vice
10 president listed, and the date under that signature
11 is 4/10/84 which I guess would have been April 10,
12 1984?

13 A Yes.

14 Q Then under state agency, Arkansas Housing
15 Development Agency, it says "by Wooten Epes executive
16 director," and that's dated 4/9/84. Then it says
17 state of Arkansas by Arkansas State Building
18 Services, there is a line that reads by Helen H.
19 Vowell, dated 4/10/84. And then underneath that
20 there is a signature by Paul D. Mallard, dated
21 4/10/1984. Under your name is SBS leasing
22 administrator. Under Mr. Mallard's name it says SBS

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1 director.

2 Do you recall signing this lease?

3 A Yes.

4 Q Did you sign it at the same time
5 Mr. Mallard did?

6 A Yes.

7 Q Do you recall having any conversations
8 during the signing of the lease with regard to the
9 previous objections that had been raised by Mr. Epes?

10 A No.

11 Q Did you sign it at the same time
12 Mr. Castleberry signed it?

13 A I never met Mr. Castleberry.

14 Q You never did?

15 A No.

16 Q Did you have any conversations with him?

17 A No.

18 Q Did you have any conversations with anyone
19 at Madison?

20 A Other than Mrs. McDougal, no, not that I
21 recall.

22 Q Did you have any discussions with

1 Mrs. McDougal, other than the comment you described
2 earlier?

3 A Yes.

4 Q And when did you have discussions with her?

5 A She came to our office at times during the
6 time that we were working on the lease.

7 Q So she was the person at Madison that was
8 responsible for working on the proposal and
9 negotiations for this lease?

10 A Yes.

11 Q Was there anyone else involved from
12 Madison?

13 A Not that I recall.

14 Q During any of the conversations or
15 communications that you had with Ms. McDougal, did
16 she ever mention to you that she was friends with the
17 Clintons?

18 A I don't -- I don't recall that she did,
19 no.

20 Q With regard to the lease we just discussed,
21 which is dated April 1st but signed separate dates,
22 do you know whether Madison employed anyone with real

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1 estate expertise to write up the lease, or did
2 someone at the corporation write the lease up, or I
3 guess, create the terms?

4 A We typically did the leases. And since it
5 was on our form, it sounds to me like we probably
6 prepared the lease. They -- I am sure they reviewed
7 it when we sent it over there for signatures.

8 Q Okay. And was it Mrs. McDougal who
9 negotiated the terms of the lease?

10 A Was it Mrs. McDougal?

11 Q Correct.

12 A To my recollection it was.

13 Q I am going to describe another document to
14 you which is dated April 9, 1985. It is on Arkansas
15 Housing Development Agency letterhead, and it is
16 directed to Paul D. Mallard, director of state
17 building services. And it is "re: Arkansas
18 Development Finance Authority" and reads "Dear
19 Paul." And it is signed -- appears to be signed
20 Wooten Epes with just "Wooten, executive director,"
21 and the first -- and the letter -- the text of the
22 letter reads, "Dear Paul: The bill will soon be

1 signed by the governor which creates a new authority
2 which will" -- I believe it says "expand AHDA" and
3 then mentions additional employees to the agency.
4 And then the next paragraph, the last sentence reads
5 "therefore I request that you explore the
6 possibility of acquiring more space for the new
7 authority."

8 Were you aware of a request in 1985 for new
9 space for the authority?

10 A Yes.

11 Q Was that letter brought to your attention
12 that I just read to you?

13 A I am sure it was.

14 Q Would that typically have been something
15 Mr. Mallard would have given to you?

16 A Yes.

17 Q Am I pronouncing it right?

18 A Yes.

19 Q Is it Mallard or Mallard?

20 A Mallard.

21 Q Thanks. Do you recall what you did after
22 you received that letter?

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1 A As I recall, that's the time that we leased
2 the additional space at Madison.

3 Q Had there been ongoing requests from
4 Arkansas Housing Development Agency to find
5 additional space between April 1st, 1984 and April 9,
6 1985?

7 A I don't know if there had been ongoing
8 requests or not. I think that we were aware, I was
9 aware that the space they were in was not large
10 enough.

11 Q So after they moved in, Mr. Epes still felt
12 that there wasn't enough room?

13 A Yes.

14 Q And he told you that?

15 A Yes.

16 Q Did he ever ask you to keep an eye open for
17 additional space that they could move into or expand
18 to?

19 A I'm sure he did. I don't recall the
20 specifics, but I am sure he did.

21 Q In or around April 9, 1985 when Mr. Mallard
22 got this request from Mr. Epes, did you put out an

1 advertisement for solicitations or proposals?

2 A No.

3 Q Why was that?

4 A Because -- I am assuming now and I don't
5 recall a lot of this specifics -- but as I said, I
6 think that we, at that point, already knew that there
7 was some space at Madison that they could expand
8 into.

9 Q And how did you know that?

10 A I don't remember if one of the agency
11 people told us, or if -- or if I was contacted by
12 someone else at Madison. I don't remember exactly
13 how that came to our attention.

14 Q After the lease was entered into in April
15 of '84, did you have any further discussions with
16 either of the McDougals?

17 A I don't recall that I did.

18 Q Did you have a conversation with anyone at
19 Madison?

20 A At some time after the lease was entered
21 into, there was a point of contact person, and the
22 agency used him as the point of contact when they had

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1 problems with the facilities.

2 Q Was that a Mr. Fitzhugh?

3 A Yes, that's the name. David Fitzhugh, I
4 believe was the name.

5 Q And did you make Madison aware that the
6 agency was unsatisfied with the amount of space that
7 they had?

8 A Well, if I made them aware of it or who
9 made them aware of it, but they were aware.

10 Q They were aware of that?

11 A Yes.

12 Q Did they ever make a representation to you
13 that they could make additional space available at
14 any time?

15 A There was conversation about that, and
16 exactly when it took place, I don't recall. But I do
17 know that there was a conversation that there would
18 be space come available in the future.

19 Q It is your recollection that that occurred
20 before Mr. Epes wrote the formal letter requesting
21 more space on April 9, 1985?

22 A Yes.

1 Q During this time period, did anyone from
2 the governor's office express any opinion or give any
3 input as to whether or not additional space rented by
4 AHDA should be at the Madison building?

5 A Not to me they didn't.

6 Q Did they to anyone at the agency?

7 A Not that I -- not that I am aware of.

8 Q Did you have discussions with Mr. Mallard
9 with regard to Mr. Epes's April 9th request?

10 A I'm sure I did.

11 Q Do you recall the contents of any of those
12 conversations?

13 A The only thing I recall is that the space
14 was available and Wooten wanted the space. That's
15 really about all I recall about it.

16 Q Did Mr. Mallard ever relate to you any
17 conversations that he might have had with the
18 governor with regard to the space?

19 Are you still there?

20 A Yes, I am.

21 Q Did you hear my last question?

22 A No, I didn't. What was it about?

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1 Q There was a dramatic pause which I don't
2 think was meant to be dramatic.

3 The question I just asked was whether
4 Mr. -- could you read the question back.

5 The court reporter will read it back so I
6 don't misspeak.

7 THE WITNESS: Thank you.

8 (The reporter read the record as requested.)

9 BY MR. O'CALLAGHAN:

10 Q And that's the Madison space.

11 A No, he did not.

12 Did you hear me?

13 Q Yes, I did. I was just taking notes.

14 Have you ever heard that Mr. Clinton had
15 conversations with Mr. McDougal with regard to state
16 agencies leasing space from Madison?

17 A No.

18 Q That's never come up in any conversations
19 that you have either been a part of or been present
20 for?

21 A That the governor had said that he talked
22 to McDougal?

1 Q That the governor had spoken with
2 Mr. McDougal and told him that a state agency could
3 lease a space from Madison as headquarters -- excuse
4 me, that a state agency would lease space from
5 Madison?

6 A No, not that I recall.

7 Q With regard to the second lease that was
8 entered into --

9 A Yes.

10 Q -- with Madison, did Mr. Epes express to
11 you any concerns he had with that lease?

12 A I don't recall that he did. He had general
13 concerns about the building. He continued to have
14 concerns about the building but he had a need, as I
15 recall, he had a need for some additional space.

16 Q Did he express to you they would like to
17 move out of that building during the term of the
18 first lease?

19 A Yes.

20 Q How many times did he do that, that you
21 remember?

22 A Probably every time I talked to him.

1 Q Did you inform him that there was
2 additional space available in the Madison building?

3 A I don't know that I'm the one that informed
4 him of that. I don't recall it.

5 Q How often would you talk to Mr. Epes?

6 A Oh, not -- not often, but during the
7 time -- during the time period of the actual move
8 into the facility, of course, we had more contact
9 than we did after the agency had settled into its
10 daily routine business.

11 Q But did you keep in contact with him during
12 the first year of the lease to make sure everything
13 was --

14 A Yes, I did.

15 Q Any idea how often you spoke to him?

16 A No, I don't remember.

17 Q Do you remember whether it was on a monthly
18 basis or weekly basis?

19 A It could have been, but then also, from
20 the -- some of the people in the office would have
21 had contact with Mr. Anderson who worked for
22 Mr. Epes.

1 Q Mr. Anderson was involved in negotiating
2 the leases; is that right?

3 A Yes, he was, and he was -- as I recall it,
4 he was -- acted as their facility person, in charge
5 of the office and the day-to-day operations of the
6 space.

7 Q And I believe you stated earlier
8 Mr. Anderson was also not in favor of moving into the
9 Madison space?

10 A Right.

11 Q Did he continue to voice his displeasure
12 with the space?

13 A Yes, he did.

14 Q Was he the person in charge of this project
15 for AHDA?

16 A Was Mr. Anderson?

17 Q Correct.

18 A Yes.

19 Q Would you say Mr. Anderson was strongly
20 opposed to moving into the space?

21 A Yes.

22 Q Did he make requests for the -- excuse me,

1 for the state building services to find other space
2 after AHDA moved into the Madison building?

3 A At some point in time he did. Exactly how
4 much time -- someone did and I don't recall exactly
5 who it came from, but we received complaints from
6 them frequently after they had been in the space a
7 while. And I don't recall how long, how many months
8 went by, or the exact time involved.

9 Q Do you recall whether any of these
10 complaints were before they entered into the second
11 lease?

12 A I don't recall the specifics of the -- you
13 know, it could have been possibly janitorial type
14 complaints. It seems to me like they had some
15 concerns that the building wasn't being kept clean
16 and some things like that, but those -- those kinds
17 of complaints are just the typical building manager's
18 complaints.

19 Q With regard to the April 1st lease, and the
20 terms that are contained in there, with the rate of
21 8.50 --

22 A Yes, sir.

1 Q -- were there any events that occurred --
2 was that the rate that was -- excuse me, let me
3 rephrase the question.

4 Was that the rate that was quoted in the
5 Madison proposal?

6 A I don't recall specifically if that lease
7 rate is exactly the same rate that they quoted in
8 their proposal or not.

9 Q Do you recall whether the rate they quoted
10 or proposed was higher or lower than the rate that
11 was actually entered into?

12 A No, I don't.

13 Q Do you recall whether the -- were there any
14 objections with regard to controlling utility costs
15 in the Madison building made by ADFA -- excuse me,
16 AHDA to be consistent?

17 A Well, as I recall, that was a full-service
18 lease. Madison was responsible for payment of
19 utilities and all costs. And I don't recall that
20 that had an installation clause in the lease.

21 Q I am going read a portion of Mr. Epes's
22 rejection letter --

1 A Okay.

2 Q -- and I will read it to the best I can. I
3 will read it with Minority counsel, and maybe he can
4 help me out, our copies are not the greatest. It's a
5 function of the production that we receive.

6 And it reads -- it is the second
7 paragraph -- "an analysis of the Madison Guaranty bid
8 for certain amount of square feet," then there is
9 parentheses, you can't read what is in there. It
10 says "the net rental," looks like it is
11 \$44,000-something.

12 And then it reads "but" -- I believe it
13 says "but we do not have the option of controlling
14 our utility cost, and accordingly are expected to pay
15 \$1.50 per square foot for utilities and services
16 which will be a gross rental of," looks like 96 -- I
17 am not even going to try to read it -- "therefore the
18 cost is about \$7000 per year higher."

19 Do you have any recollection of concerns
20 related to the matters I just read to you?

21 A No, I really -- I don't. I don't recall
22 the details of that.

1 Q And in this letter, also -- I will move
2 on.

3 When Mr. Epes was told that additional
4 space was available in the Madison building, did he
5 say whether he had a preference for leasing that
6 space or to move into another space?

7 A I just simply don't recall that.

8 Q Just to help you remember, did he suggest
9 that they take the space because it would be easier
10 for them rather than moving to another building?

11 A Well, probably, yes, that would have been
12 in the conversation.

13 Q Do you know if Mr. Mallard first told
14 Mr. Epes that the space was available in the Madison
15 building?

16 A No, I don't know that.

17 Q Did Mr. Mallard have any conversations with
18 Mr. Epes with regard to the additional space that was
19 available in the Madison building?

20 A I don't know.

21 Q Were there ever any discussions about
22 putting out advertisements for solicitation of

1 proposals with regard to expanding AHDA's stays, or I
2 guess it was ADFA at this time?

3 A No, there weren't any conversations about
4 that.

5 Q Was that because you knew the space was
6 available at the Madison building?

7 A Yes.

8 Q And that had been brought to your attention
9 by people at Madison?

10 A Yes, I guess that's how I found out about
11 it. I don't recall exactly how I found out about it,
12 but at -- with only one year into the lease
13 agreement, it would have not made any fiscal sense to
14 relocate them at that time, if space was available at
15 a reasonable rate right next door.

16 Q Okay. I was going to ask you about that
17 next, actually. I am going to read to you portions
18 of what appears to be a lease. And again it is on
19 Arkansas State Building Services standard lease form
20 1, with the lease term of 9/20/85 to 9/19/88; annual
21 rent is 13579.96, square feet 1456, and the rate
22 stated is \$9.32 per square foot. It says "this lease

1 made this 13th day of August 1985, then by which
2 Madison Financial Corporation, lessor, leases to the
3 state of Arkansas, Arkansas State Building Services,
4 for the lease of Arkansas Development Finance
5 Authority, 1501 Main Street, Little Rock, Arkansas."

6 The question is, at that time, August 13,
7 1985, was \$9.32 a competitive rate?

8 A I believe that it probably was.

9 Q The initial rate in the first lease was
10 8.50 per square foot?

11 A Yes.

12 Q The second was 9.32 per square feet and I
13 was asking does that comport with your recollection
14 of an increase in the rates in that time period?

15 A I don't recall why there was more than a
16 dollar increase in the rate at that particular time.

17 Q It is a little less than a dollar, I
18 guess.

19 A A little less than a dollar.

20 Q I think it is 82 cents.

21 A I don't recall what would have determined
22 that.

1 Q Who negotiated that second lease?

2 A I really don't remember that either.

3 Q Were you involved in that?

4 A Not to a large extent, I don't believe that
5 I was.

6 Q You had some involvement, right?

7 A Oh, I did, yes.

8 Q Okay. I neglected to read the last page of
9 the document, which contains the signatures. And
10 just for the record, it says under "lessor for
11 Madison Financial Corporation," it reads "by,"
12 appears to be a signature, says "David Fitzhugh, vice
13 president." There is a Paul Castleberry line
14 underneath that but that's crossed out. Then there
15 is state agency, Arkansas Development Finance
16 Authority, Wooten Epes and it says Wooten Epes,
17 president -- and for state of Arkansas, it says by
18 Helen Herr, SBS leasing administrator, date 9/20/85;
19 then by Paul D. Mallard, SBS director, date 9/23/85.

20 Do you recall whether or not you signed the
21 second lease?

22 A Yes, I did.

1 Q I just noticed that there was a slight
2 difference in the two leases, in that the first lease
3 had dates with all the signatures, and the second one
4 just had dates for you and Mr. Mallard's signature.
5 Do you recall why that was?

6 A The first lease had what date? I am not
7 clear on your question.

8 Q I'm sorry. Dates that accompanied the
9 signatures on the document for everyone, and the
10 second lease doesn't have dates for Mr. Fitzhugh or
11 Mr. Epes.

12 A No, I don't recall why that was.

13 Q Okay. If I have already asked this
14 question, let me know. Counsel, please let me know
15 also.

16 Whether or not Mr. Epes expressed any
17 reservations about entering or signing a second lease
18 with Madison?

19 A As I told you -- I think I told you --
20 Wooten was never quite pleased with the facility.
21 And at some point in time, he wrote to both of us
22 about his concerns. I don't recall, I think that

1 that was -- as I recall, it was after the second
2 lease.

3 And as I recall, he did have concerns about
4 entering into that second lease agreement, but they
5 were not serious -- serious concerns. And he felt
6 that he needed the space, and so he entered into the
7 lease.

8 Q Okay, I have a question for you about
9 what's contained in the lease -- and actually this is
10 to the best of your ability, if you feel
11 uncomfortable answering, just let me know and you can
12 refrain from answering.

13 A Okay.

14 Q On the first page, in the section which had
15 the lease term and annual rent, square footage and
16 the rate, the rate reads \$9.32 per square feet, and
17 then further in on the document, on the third page
18 under section numbered 9, special provisions --

19 A Yes.

20 Q -- it reads "the base rate of this lease is
21 8.50 per square foot per year plus 100.33 per month
22 over the base period for renovation costs." Are

1 those two consistent?

2 A I assume that they charged -- they
3 amortized the cost of the renovations out over the
4 term of the lease, in addition to the base rate.

5 Q So they were charged for the cost of the
6 renovation to the Madison building?

7 A For the tenant improvements. That's the
8 way I recall it.

9 Q Do you know if the tenant improvements that
10 were undertaken by Madison were completed by the time
11 ADFA moved out of the building?

12 A No, I don't know that.

13 Q Did ADFA make payments to Madison for those
14 renovation costs or were they in addition to what the
15 monthly rate was, do you know?

16 A I don't know specifically. I would assume
17 it was all included with the lease payment, the
18 rental.

19 Q What type of renovation was undertaken by
20 Madison at this time?

21 A I don't recall specifically what it was.

22 Q Do you recall whether it was any permanent

1 change in the structure of the building, whether it
2 was putting in a drywall?

3 A Well, now the way you read that lease to
4 me, and my knowledge of it, I thought that we were
5 talking about tenant improvements to the space that
6 ADFA leased.

7 Q So that would have been -- would that have
8 been tenant improvement to the 1456 feet of square
9 office space that they were talking about?

10 A Yes. That's the way I would interpret
11 that, yes.

12 Q Do you know what the physical condition of
13 that space was before they moved in?

14 A No, I really don't. I don't recall.

15 Q Do you think to inspect it?

16 A I don't think I did. Someone else from my
17 office may have. Morris Patterson may have gone, I
18 don't recall, but I don't.

19 Q You are saying you didn't go?

20 A I don't think so.

21 Q I think you misspoke or you said I went --

22 A I do not remember that I went because I

1 don't remember seeing that extra space.

2 Q Are you still with us?

3 A Yes, I am here.

4 Q I believe the letter identified earlier to
5 you, the April 9, 1985 letter which requested the
6 additional space?

7 A Yes.

8 Q Did you know at that time that Madison had
9 extra space available, or did Madison have space
10 available at that point, in April?

11 A I don't recall which came first, the
12 knowledge that Madison had some additional space or
13 Wooten's letter. Typically, we always had the agency
14 send us documentation for the need for space, for
15 additional space.

16 Q Okay. And the reason I ask is the request
17 for additional space is dated April 9, 1985, and then
18 the lease that was entered into was dated August 13,
19 1985 -- I guess signed -- your signature appears
20 September 23, and whether there was any construction
21 that went on between the time you received the
22 request or -- I am trying to get an idea as to how

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1 that process worked with regard to the additional
2 space and what the time line was --

3 A What is the date on the front of the
4 lease?

5 Q August 13th --

6 A Okay.

7 Q -- is on the front.

8 A Typically we would enter into the lease
9 agreement prior to the lessor doing any construction
10 on the space.

11 But, in this particular instance, I do not
12 recall what transpired between April letter from
13 Wooten and the September lease.

14 Q Do you recall whether there were any
15 contentious issues with regard to finding new space
16 for AHDA during that time period?

17 A No, I don't recall.

18 Q So you don't know why there was a delay of
19 several months between the request for additional
20 space and the entering of the lease agreement with
21 Madison?

22 A No, I don't remember that.

1 Q Do you have any recollection of whether
2 Madison was contacted and the agency was asked to
3 hold off in moving into new space until they were
4 able to make new space available?

5 A No, I don't recall that specifically.

6 Q Have you heard of any conversations of that
7 type?

8 A Yes, somewhere I have but I don't remember
9 exactly -- exactly where that would have come from.

10 Q Would that have been a conversation you had
11 with Mr. Mallard or --

12 A I don't know. As I said, Wooten had
13 expressed the need for more space originally. And
14 there was someone else in the facility, and it could
15 have been that they had to wait until the lease
16 expired with that other tenant. I really just don't
17 recall.

18 Q So you don't recall whether anyone from the
19 agency talked to anyone at Madison with regard to
20 waiting on space to be freed up so that they could
21 expand ADFA's space?

22 A No, I don't.

1 Q You have a vague recollection that a
2 conversation like that occurred?

3 A Yes, I have a vague recollection.

4 Q Do you believe a conversation like that
5 happened?

6 A It probably did.

7 Q Ms. Herr, we just received a package of
8 documents which we may want to quickly refer to. And
9 I figure this might be a good time for a break. You
10 have been very patient talking to us for a long time
11 now.

12 I was wondering if you would be amenable to
13 a break at this point.

14 THE WITNESS: Yes, that would be great.

15 MR. O'CALLAGHAN: Okay.

16 THE WITNESS: You want to call me back or
17 you want to disconnect the line, or what do you want
18 to do?

19 MR. O'CALLAGHAN: That would probably be
20 best. We can call you back in 15 minutes, okay? And
21 we will give you an idea of how much longer we will
22 be and what we found and whether or not there are

1 additional documents that we need to talk to you
2 about.

3 THE WITNESS: 15 minutes? That would be
4 great.

5 MR. O'CALLAGHAN: About 12:15 your time.
6 Thank you very much.

7 (Recess.)

8 BY MR. O'CALLAGHAN:

9 Q Before we went off the record, I told you
10 there were some documents that came in that we wanted
11 to review and there may be a couple of questions
12 about those. And so the record is clear, both
13 Minority and Majority counsel have had a chance to
14 review the documents received. I will describe them
15 for the record and show them to Minority counsel if I
16 have occasion to use any of them.

17 I want to take a quick step back with
18 regard to the first lease that AHDA entered into with
19 Madison. Do you recall whether or not AHDA directed
20 or asked state building services to negotiate or
21 enter into negotiations with any other company with
22 regard to obtaining office space for them?

1 A No, I don't recall.

2 Q I've got in front of me a one-page letter,
3 Bates stamp DKSJN 016566, which may help refresh your
4 recollection. It is on Arkansas Housing Development
5 Agency letterhead --

6 A Yes.

7 Q -- dated October 31, 1983?

8 A Yes.

9 Q -- addressed to Mr. Carl Brooks, state
10 building services, who, I believe you said, was one
11 of your people you supervised?

12 A Yes.

13 Q And it is signed by -- it says Wooten Epes
14 and it says Wooten on the signature line. I will
15 read it to you. It says "Dear Carl, after reviewing
16 the office space which your agency has surveyed, the
17 AHDA requests that you negotiate with Rector,
18 Phillips & Horn to obtain a lease from the owner of
19 the property located at 1320 Brookwood."

20 Did you have any memory of that request?

21 A Well, now that you have read that to me, I
22 do -- I remember something about that. But the

1 specifics of it, I do not remember.

2 Q Do you recall whether negotiations were
3 ever entered into with Rector, Phillips & Horn?

4 A No, I don't.

5 Q Did you have any discussions with people at
6 that company?

7 A At that time, I recall I was involved in
8 getting the solicitations and I don't recall --

9 MR. FROMEWICK: Could you speak up.

10 THE WITNESS: I don't recall any of the
11 particulars about the negotiations early on, about
12 any of the specific office spaces that we looked at.
13 When I say "we," Carl and others in the office.

14 BY MR. O'CALLAGHAN:

15 Q During the time that the agency moved into
16 the Madison building, were there any construction
17 costs that they had to incur with regard to moving in
18 during the first lease?

19 A Construction costs?

20 Q Correct.

21 A Not that I -- it was all included in the
22 lease, as I recall.

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1 Q I have another document in front of me,
2 which bears the Bates stamps DKS N 016505, and the --
3 I'm sorry, there are two pages. The first page is
4 016504, and the first page appears on Madison
5 Guaranty stationery, and reads "bid proposal, lease
6 space 1501 Main Street, Madison Square."

7 And then the second page appears to be a
8 proposal. And in the second page of the document,
9 the third paragraph reads "our lease agreement for
10 the 6698 square feet of space proposed is drawn with
11 minor changes only. This design is \$7 per square
12 foot net lease price.

13 Do you recall receiving a proposal with
14 that \$7 per square foot as the net lease price?

15 A That does sounds familiar.

16 Q And then earlier, I showed you a lease
17 which had a rate listed at 8.50 per square foot?

18 A Yes.

19 Q Do you recall why there was a difference
20 between the proposal and the actual rate that was
21 agreed to?

22 A To the best of my recollection, I have to

1 say that the difference is more than likely the
2 utility cost that the original proposal was made on a
3 net lease basis, and later the utilities were added
4 into the least agreement. That \$1.50 a square foot
5 sounds to me like utility cost.

6 Q And that's consistent with the March 5th
7 letter I showed you for Mr. Epes?

8 A Yes.

9 Q I would like to direct your attention once
10 again to the period of time when the second lease was
11 entered into --

12 A Yes.

13 Q -- between Madison and ADFA, at this point
14 I guess was the name of the agency, with regard to
15 the renovations that were conducted on the Madison
16 building. Are you aware of what construction company
17 did those renovations?

18 A No, I am not.

19 Q Was there a bidding process put in for what
20 choice of what construction company would conduct the
21 renovation?

22 A I don't know that.

1 Q Are you familiar with a company called D&H
2 Construction Company?

3 A No, I'm not.

4 Q Okay. Would state building services have
5 had any input as to what company was used for the
6 construction on the building?

7 A No, we wouldn't have.

8 Q Due to the fact that the construction costs
9 were included in the rent, did -- just to help
10 refresh your recollection, did that cause an interest
11 in the state building services to make sure they got
12 the most efficient contractor they could for the
13 repair costs or renovation costs?

14 A No, that was typically left to the land
15 owner.

16 Q And if the costs that were quoted in the
17 lease, if they are above and beyond the costs that
18 were quoted, would those be picked up by the --
19 whoever was leasing the space?

20 A No, as I understand that lease, it was a
21 turnkey lease, and --

22 Q I'm sorry. What does that mean, "a turnkey

1 lease"?

2 A That everything was included in that quoted
3 rate. There wouldn't have been any overage if the
4 contract ran over. But that was typically the way we
5 did leases.

6 We did not even do open-end type agreements
7 like that.

8 Q Were you aware of any security or safety
9 concerns that were raised by AHDA or ADFA at any
10 point?

11 A Yes.

12 Q What was brought to your attention?

13 A At some point in the occupancy of the
14 space, the security got quite lax. One of the
15 provisions that we were insistent upon is that they
16 did have security. And at some point in the agency's
17 occupancy -- and I don't remember how long or exactly
18 when this occurred -- the security company, private
19 security company or whatever it was that Madison
20 hired, they either quit or -- I don't remember.

21 But the security became quite lax down
22 there, and they would call us with different problems

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1 that would come up, concerns about the safety of the
2 female employees, getting in and out of the
3 building.

4 Q Do you recall whether security terms were
5 included in the proposal that was submitted by
6 Madison?

7 A I don't remember if that was in the
8 original proposal, but I do know that that was
9 negotiated.

10 Q Who was that negotiated with?

11 A Well, I assume it was with McDougal.

12 Q Did you participate in those negotiations?

13 A I had conversations about our concerns, and
14 voiced Wooten's concerns, and said that I felt that
15 they would be very important, very important for
16 Madison to include to make Mr. Epes feel better about
17 moving down there.

18 Q I just want to confirm whether you are
19 aware of something which appears to be included in
20 the bid proposal. I am referring to our document
21 Bates numbers DKSJN 016505. And under the section
22 entitled "security," it reads "this price is to

1 include security in the form of an armed guard for
2 the parking lot to insure the safety of those
3 employed at the agency to and from their automobile.
4 The safety of all automobiles will" -- looks like it
5 "will," something, "be guaranteed" -- "will also be
6 guaranteed."

7 Is that consistent with your recollection
8 of the terms of the agreement that you reached with
9 Madison?

10 A Yes.

11 Q Then you mentioned earlier that at some
12 point there were some concerns that were raised by
13 the agency with regard to the security problems?

14 A Yes, later, after they had occupied.

15 Q Could you say that again? We are having a
16 hard time hearing you again.

17 A After they had occupied the space for some
18 time, and I don't recall exactly how long, how much
19 time had lapsed, they became concerned that the
20 security was not as visible as it was when they
21 originally moved into the space.

22 Q Okay. And did you contact anyone at

1 Madison with regard to those concerns?

2 A Yes. I recall that I sent a letter voicing
3 those concerns at some point.

4 Q And who did you send the letter to?

5 A By then I think the contact was
6 Mr. Fitzhugh.

7 Q And was there a specific event that caused
8 you to stop contacting Mrs. McDougal and begin
9 dealing with Mr. Fitzhugh?

10 A Well, Mrs. McDougal just wasn't around any
11 longer.

12 Q She was no longer with the bank?

13 A I didn't have any contact with her. I
14 don't know if she was still with the bank or not, but
15 I didn't have any contact with her after we moved
16 into the space.

17 Q And what was Mr. -- what were the concerns
18 you raised with Mr. Fitzhugh?

19 A There were some concerns about loiterers in
20 the parking lot, people just that would hang around
21 the building, and just general lack of upkeep on the
22 building.

1 Q What types of lack of upkeep did you bring
2 to his attention?

3 A Well, as I recall, it was janitorial
4 services. They weren't cleaning the building like
5 they had at first.

6 Q Do you recall whether this was before or
7 after the second lease was entered into?

8 A No, I don't recall when it was.

9 Q Did you have more than one -- did you write
10 more than one letter or just one letter?

11 A I don't remember how many letters I sent.
12 I am thinking maybe it was two, at least two, but I
13 don't recall specifically.

14 Q Did you have conversations with them about
15 these concerns before you sent the letters?

16 A Yes.

17 Q Were the letters a way to memorialize the
18 concerns?

19 A Yes.

20 Q What was his reaction when you expressed
21 these concerns?

22 A That he would take care of it, that he

1 would see what he could do. And some of the
2 conversations weren't necessarily my conversations,
3 but Mr. Patterson in my office, I think, talked to
4 Mr. Fitzhugh, and his reports would come back to me
5 of conversations.

6 Q Was there any problem with people breaking
7 into cars in the parking lot of the building?

8 A That seems to be part of the complaint,
9 that they were concerned about the cars, and just
10 general security concerns.

11 Q And did anyone at Madison ever represent to
12 you that they didn't have responsibility for security
13 in the parking lot?

14 A I don't remember that they did.

15 Q Did there come a time when ADFA moved out
16 of the Madison Guaranty building?

17 A Yes.

18 Q When did that occur?

19 A I believe it was in '89, possibly '88. I
20 am not sure on those dates, but I do know it was
21 prior to the expiration of the lease. They got out
22 of the contract.

1 Q I might have a document to help refresh
2 your recollection. It is a one-page document on
3 Madison Guaranty letterhead. And it is dated June 9,
4 1987, and it is addressed to Mr. James A. Moses, AMR
5 Real Estate "re: ADFA lease Madison Bank building,"
6 and there is a signature line for Stephen R.
7 C-u-f-f-m-a-n, Cuffman, chairman. But the copy I
8 have does not actually have his signature on it but I
9 can represent to you that that it is in the form of a
10 letter.

11 And the letter reads "dear Jim, this letter
12 will set forth Madison's proposal regarding the
13 relocation of the Arkansas Development Finance
14 Authority from Madison Bank building to the
15 technology center." It says "Madison proposal
16 follows consideration for releasing the Arkansas
17 Development Finance Authority from those lease
18 agreements dated April 1, 1984, September 28, 1985,
19 respectfully."

20 Does that help refresh your recollection as
21 to when that occurred?

22 A Yes.

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1 Q Is it consistent with your recollection
2 that the mechanism for that was ongoing June 1987 to
3 move ADFA out of the Madison Bank building?

4 A Yes, I guess so. I thought it was 1988 but
5 '87 is probably when it was.

6 Q This may be more consistent. I also have a
7 letter that's addressed to Ms. Sarah Hawkins, which
8 bears some Bates on it, KCR 00374, dated February 22,
9 1988. It's a letter addressed to Ms. Sarah Hawkins,
10 Madison Guaranty Savings & Loan, re: lease buyout
11 signed by Mark H. Estes.

12 "Dear Ms. Hawkins, enclosed please find
13 the final amount due for the above-mentioned
14 transaction. I'm sorry if this delay has caused you
15 any convenience." And then there is a signature.

16 Is that -- were you aware of the payments
17 that were made with regard to the buyout?

18 A No, I wasn't involved in that.

19 Q Do you know who Mark Estes is?

20 A No.

21 Q With regard to Madison moving -- I'm sorry,
22 ADFA moving out of the Madison building, do you

1 recall what prompted that?

2 A Well, of course there were just the ongoing
3 concerns about the building not being maintained, and
4 I don't recall if Madison -- I don't even remember if
5 Madison was still a functioning institute at that
6 point, but I do -- I was aware that the agency moved
7 but I was not involved in the specifics of it.

8 Q Who was involved with that project?

9 A I don't recall --

10 Q Was it --

11 A -- exactly who.

12 Q Was it someone in your office?

13 A I really don't remember too much about the
14 specifics of the relocation.

15 Q Do you know if an advertisement was put out
16 for proposals to relocate ADFA?

17 A I don't think so. I don't recall that
18 there were proposals.

19 Q Do you recall whether Mr. Epes made another
20 request to move ADFA out of the Madison building?

21 A I am sure he did.

22 Q Do you know if he had sent in a written

1 request?

2 A I don't -- I just don't recall that.

3 Q Were there any communications from anyone
4 at the governor's office with regard to moving ADFA
5 out of the Madison building?

6 A Not with me there weren't.

7 Q Are you aware of any that occurred?

8 A No.

9 Q Have you ever heard that?

10 A No.

11 Q Ms. Herr, when we began this deposition,
12 you told me that you were also aware of -- you
13 believe there was a lease entered into by state -- by
14 the state of Arkansas with Madison with regard to the
15 Arkansas revenue department?

16 A Yes.

17 Q Is that part of the Department of Finance
18 and Administration?

19 A Yes.

20 Q What's your knowledge of that lease? If
21 you could give me a general overview, then I will ask
22 you more specifics.

1 A I was not involved in the specifics of that
2 lease. It was Mr. Patterson in my office who handled
3 the specifics of that lease with ADFA. And I do not
4 recall any of the specifics of that lease.

5 Q And when you say ADFA, is that Arkansas
6 Development Finance Authority?

7 A I mean -- I'm sorry, revenue. I am getting
8 my agencies mixed up here.

9 Mr. Patterson handled that lease with the
10 revenue department, because he routinely negotiated
11 all of the leases for the revenue department.

12 Q Did he report to you with regard to the
13 work he was doing on that project?

14 A He typically kept me informed, yes.

15 Q Did you participate in any of the
16 negotiations of that lease?

17 A No.

18 Q Did you participate in any of the site
19 review for that lease?

20 A No.

21 Q How did you know that this lease was
22 entered in with Madison Financial or Madison

1 Guaranty?

2 A Well, it would have -- you know, it would
3 have come through our office, and whether or not I
4 actually signed that particular lease, I don't
5 recall. He always had two signatures on them, our
6 leases. Our lease agreements required two
7 signatures.

8 Q Do you know who at Madison Mr. Patterson
9 dealt with on this lease?

10 A I think it was David Fitzhugh.

11 Q Do you know how the site for the revenue
12 lease was first discovered?

13 A No, I don't recall.

14 Q Have you ever -- did you ever see the
15 building that they moved into?

16 A Yes.

17 Q Is it your recollection it was 1520 Main
18 Street?

19 A Yes, it was across the street from the
20 bank.

21 Q Was that a former service station that had
22 been renovated?

1 A Yes.

2 Q And the bank had formerly been a laundry;
3 is that right?

4 A Yes.

5 Q Now, with regard to the revenue division of
6 the department of finance administration lease --

7 A Yes.

8 Q -- I might have just asked you this, let me
9 know. Was there an advertisement for proposals put
10 out for that?

11 A I don't recall if there was.

12 Q Do you know why, if there wasn't one, why
13 there wasn't one sent out?

14 A No, I really don't.

15 Q Were requests for proposals sent out on
16 most leases or for most leases?

17 A We attempted to solicit for large leases,
18 general office space leases in Little Rock, we
19 attempted to advertise in the real estate community
20 for those type leases. Sometimes we did not always
21 do that, and we -- each lease was handled
22 differently.

1 Q Okay. What would cause you not to send out
2 solicitations?

3 A Well, if the revenue department, or
4 whichever agency, had a specific requirement about
5 location or had a specific need, we had the authority
6 to just negotiate for space.

7 Q Do you recall that being the case with
8 regard to the revenue division lease?

9 A No, I don't. I just don't recall the
10 specifics around that particular lease.

11 Q Are you aware whether there were any
12 concerns raised by anyone in the Department of
13 Finance and Administration revenue division with
14 regard to moving into that space?

15 A No, I'm not.

16 Q Did you ever hear or do you know whether
17 anyone at the governor's office suggested that this
18 lease be entered into with Madison?

19 A No, I don't know that either.

20 Q I have a document in front of me which is
21 on Department of Finance and Administration
22 letterhead, dated November 7, 1985. It says to

1 Morris Patterson, state billing service, from John R.
2 Cox, administrator, state revenue office
3 administration, copies to Charles Ragland,
4 commissioner; subject, relocation, east Little Rock
5 revenue office.

6 First paragraph reads "efforts to secure
7 new location for the East Little Rock revenue office
8 have culminated in an offer to Madison Guaranty
9 Savings & Loan Association to lease space to us,
10 (DF&A) at 16th and Main Street, Little Rock."

11 Does that help refresh your recollection as
12 to how the Madison property came to your attention?

13 A I don't recall any more of the details of
14 having read that memo but I am sure Mr. Cox would
15 have sent that kind of a memo to Morris once they had
16 settled on the space and he would have had to have
17 approved it.

18 Q Have you ever learned -- this is a more
19 specific question -- whether Governor Clinton told
20 Mr. McDougal that a state agency -- in the form of
21 the revenue office, would lease space from Madison in
22 return for campaign contributions he may have

1 received?

2 A No, I don't know that.

3 Q Do you know if he told Mr. McDougal that
4 the state would -- the state revenue office,
5 administration, would lease space from Madison for
6 any reason?

7 A No, I don't know.

8 Q Ms. Herr, are you familiar with anyone by
9 the name of Dan Dane?

10 A No, I am not.

11 Q Are you aware whether the state building
12 services entered or helped negotiate any leases for
13 the department of corrections, that -- with leases
14 that had any association with companies involved with
15 Madison Guaranty Savings & Loan, or Madison Financial
16 Corporation?

17 A No, I am not.

18 Q Are you aware whether the department of
19 revenue had any problems with the space that they
20 moved -- did they eventually move into that space at
21 1520 Main Street?

22 A Yes, they moved in.

1 Q Do you know if they had any problems after
2 they moved in with that space?

3 A I recall Morris relating some problems to
4 me about the space, but exactly the what the
5 specifics were, I don't recall that; just general
6 maintenance type problems, I think.

7 Q Did state building services or any of the
8 agencies that actually leased the space from Madison
9 have any problems with rent increases that they
10 hadn't anticipated?

11 A With rent increases?

12 Q Correct.

13 A I don't remember specific rent increases.

14 Q Do you remember generally rent increases
15 that you hadn't expected?

16 A No.

17 Q Ms. Herr, did you learn at any time that
18 Governor and Mrs. Clinton and Mr. and Mrs. McDougal
19 were ever engaged in a business partnership together?

20 A Not during that period of time, I did not;
21 only until recently did I know that.

22 Q And when did you find out, or when did you

1 hear that?

2 A I guess when the first newspaper articles
3 were written about it.

4 Q So that would have been after 1986?

5 A Yes.

6 MR. O'CALLAGHAN: I have no further
7 questions for you at this time. The way we usually
8 work this is I ask the first round and then Minority
9 counsel has a chance to ask some questions as well.
10 And then if I have anything I think needs to be
11 clarified, I will ask a couple more and back and
12 forth. But we will try to make it as efficient a
13 process for you as possible.

14 THE WITNESS: Okay.

15 MR. FROMEWICK: Mrs. Herr, how would you
16 like to take a two-minute break.

17 THE WITNESS: That would be great. Are you
18 going to call me back?

19 MR. FROMEWICK: No, let's keep the line on.

20 THE WITNESS: I will be right back.

21 MR. FROMEWICK: Me too, just take a
22 second.

1 (Recess.)

2 EXAMINATION

3 BY MR. FROMEWICK:

4 Q I have a bit to cover and I would like to
5 try to do it systematically, if I can.

6 I would like to go back to the time after
7 you had received the proposal, when Mr. Mallard
8 called you into his office and Susan McDougal was
9 there. Do you remember speaking about that?

10 A Yes.

11 Q Do you recall exactly when that was in
12 relationship to having the original proposal?

13 A No. I really do not recall specifically.

14 Q Do you know how long you had been working
15 on the proposal before that time, approximately?

16 A Before I -- how long I had been working on
17 Madison proposal?

18 Q Yes -- no, excuse me, on the ADFA search,
19 on the search for the housing development, you had
20 already been looking for space for housing.

21 A I had been looking for some time, but
22 exactly how much time had gone by, I do not recall

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1 the specific date.

2 MR. O'CALLAGHAN: Just so we are clear,
3 when you said proposal before, you were referring to
4 the search for space for AHDA that was going on, not
5 the specific proposal made by Madison Guaranty?

6 MR. FROMEWICK: That's correct. I
7 misspoke.

8 THE WITNESS: Right.

9 BY MR. FROMEWICK:

10 Q So you had already been working on this and
11 you got called in and Susan McDougal was there. Had
12 you know her at that point?

13 A No, I did not know her.

14 Q Was she introduced to you?

15 A Yes.

16 Q How was she introduced to you?

17 A As I recall, Mr. Mallard said this is Susan
18 McDougal, and that she and her husband Jim were
19 developing a building to house their savings and
20 loan. And I said yes, that I was aware of that,
21 because there had been, of course, articles in the
22 newspaper about Madison relocating to Little Rock.

1 And I was familiar with who they were, and
2 that they had space. That they would like for us to
3 consider leasing for the housing agencies ADFA. Then
4 he wanted us to -- he wanted me to get with our
5 architect, Glenn Cox, and take a look at it.

6 Q Did he introduce her as his friend?

7 A Yes, I believe he did.

8 Q Did he introduce her as a friend of the
9 governor's?

10 A That, I don't recall whether he said that
11 or not. But that -- as I say, that was just
12 something that I was aware of, because I knew the
13 McDougals, knew who they were.

14 Q So nobody ever specifically pointed out a
15 relationship between the McDougals and the governor
16 to you; this is just something that was commonly
17 known?

18 A Yes, it was commonly known, and later, in
19 conversation with Mr. Mallard, he mentioned to me
20 that the McDougals were friends.

21 MR. O'CALLAGHAN: Of the governor and
22 Mrs. Clinton; is that right?

1 THE WITNESS: Yes.

2 MR. O'CALLAGHAN: Just so we are clear, was
3 that the conversation you referred to earlier after
4 Mr. Epes wrote a letter saying that AHDA rejected the
5 proposal?

6 THE WITNESS: Yes.

7 MR. O'CALLAGHAN: Thanks.

8 BY MR. FROMEWICK:

9 Q Now, was it unusual for Mallard to call you
10 into his office and introduce you to people?

11 A No.

12 Q Was it unusual for him to suggest other
13 spaces for you to consider that possibly hadn't been
14 in an official proposal?

15 A I wouldn't say it was unusual. It was not
16 routine but it was not unusual.

17 Q So when you were introduced to Susan
18 McDougal in Mallard's office, this was, as far you
19 knew, just a regular part of your business?

20 A Right.

21 Q And you treated it as such; is that
22 correct?

1 A Yes.

2 Q And as far as suggesting other spaces, that
3 was common also for Mr. Mallard, suggesting other
4 spaces?

5 A He did it from time to time. People
6 contacted him a lot about different buildings that
7 they had available, and he would bring it to our
8 attention.

9 Q And these were people that might not have
10 responded to your advertisements, people you had not
11 heard of before, you would hear of for the first time
12 from Mr. Mallard?

13 A Yes, yes.

14 Q Did you treat -- the suggestion that you
15 get together with the architect and consider the
16 Madison space, did you treat that any differently
17 than any suggestion you had gotten previously from
18 Mr. Mallard?

19 A No.

20 Q Did he indicate to you in any way that you
21 should treat it differently?

22 A Not at that time he didn't.

1 Q By the way, who had the final say, you or
2 Mr. Mallard?

3 A Mr. Mallard.

4 Q So regardless of what you decided to do, in
5 the final analysis, Mr. Mallard would make the
6 decision?

7 A Yes, that's right.

8 Q Did you ever have disagreements with
9 Mr. Mallard before over a specific space?

10 A Yes, we disagreed from time to time.

11 Q Did he ever overrule you before?

12 A I don't recall specifically if he had,
13 quote, overruled me. We usually were able to talk it
14 out, and come to an agreement.

15 Q Now, when you were talking earlier about
16 the Madison space in comparison to others that you --
17 that ADFA or -- what should we call it?

18 MR. O'CALLAGHAN: I believe the first
19 lease, it was called AHDA, and later on in the second
20 lease, it was called ADFA. But let's call it ADFA
21 for purposes of convention. Is that agreeable to
22 you?

1 MR. FROMEWICK: It is easier for me to call
2 it one so we will call it ADFA and we will know we
3 are speaking of the same thing.

4 THE WITNESS: Okay.

5 BY MR. FROMEWICK:

6 Q You were comparing to it other space that
7 ADFA was interested in, and other space that you had
8 gotten proposals for.

9 Am I correct that you said that the price
10 and the -- it was competitive with the rest of the
11 market?

12 A Yes.

13 Q So in terms of what they had to offer,
14 outside of the neighborhood, at this point you had no
15 real objection to that space; is that correct?

16 A That's correct.

17 Q And by the way --

18 MR. O'CALLAGHAN: Just so we are clear, I
19 think earlier you stated there was a problem with the
20 space considerations; is that right?

21 THE WITNESS: I thought you were talking
22 about the price now.

1 BY MR. FROMEWICK:

2 Q I was talking about your considerations at
3 that point. The space consideration was Mr. Epes?

4 A That's right. Mr. Epes brought up the
5 concerns about the space not being large enough, but
6 so far as the rental rate was concerned, for the type
7 space that I was -- that they quoted us on, it was
8 within -- it was within reason.

9 Does that clarify that for you?

10 Q Yes. And by the way, the quality, was the
11 stock in the space pretty good, I think you spoke
12 about that earlier, was the space a decent space?

13 A Yes.

14 Q And you shared Mr. Epes's concern about the
15 neighborhood, or was that more his concern than
16 yours?

17 A It was more his concern.

18 Q Why is it that you had no concern about the
19 neighborhood?

20 MR. O'CALLAGHAN: She didn't say she had no
21 concern.

22 BY MR. FROMEWICK:

1 Q Explain your attitude towards the
2 neighborhood.

3 A Well, I thought that they might have been
4 overreacting to the security problems that existed in
5 that part of town, that they had said they would
6 provide security. And there was a push at that time
7 to develop that part of Main Street, and I thought
8 with more development that would come into the area,
9 that some of the neighborhood security concerns might
10 be alleviated.

11 Q Was that part of your -- any part of your
12 duties, to consider the effect of a move on a
13 neighborhood?

14 A No, it really was a little out of the scope
15 of my work.

16 Q How about --

17 A There was sort of an unwritten policy that
18 we attempted to lease space in the downtown area, if
19 possible.

20 Q That was a policy that came from
21 Mr. Mallard on down?

22 A Yes.

1 Q Would you agree that improving a
2 neighborhood's development is a good thing?

3 A Yes.

4 Q Would you think that the governor would
5 have that interest in seeing that neighborhoods are
6 improved?

7 A Yes. I stated earlier they were -- it was
8 expressed to me that they were interested in the
9 Quapaw quarter area, and that's what that area is
10 referred to there, Quapaw quarter.

11 Q You said there had been interest in
12 improving the Quapaw area quarter. Where did you
13 hear of this interest, was this in any sort of
14 official communications?

15 A Oh, Quapaw quarter was a historic area and
16 there was a separate agency charged with maintaining
17 the integrity of the area, so I was well aware of the
18 push and the need to develop that area. But
19 Mr. Mallard specifically said in our conversations
20 that there was interest from the governor's office in
21 that area.

22 Q This is the same time you learned, or

1 Mr. Mallard told you this was a relationship between
2 the governor and the McDougals?

3 A Yes. I -- yes.

4 Q But at this point, he told you that the
5 governor was interested in improving the area?

6 A Yes.

7 Q And you agreed with that?

8 A Yes.

9 Q And would moving the state agency into an
10 area like that have an improvement upon it?

11 A Yes, it would.

12 Q So from the state's point of view, and from
13 the view of the separate agency which had the -- was
14 responsible for historic areas, moving ADFA into
15 Madison's building was a good thing?

16 A Yes.

17 Q And the only concerns were Mr. Epes's
18 concerns over safety and space; is that correct?

19 A Yes.

20 MR. FROMEWICK: I think we have to hold on
21 one second. There is a courier to pick up the
22 transcriber's tapes, hang on a second.

1 (Discussion off the record.)

2 MR. FROMEWICK: Back on the record.

3 BY MR. FROMEWICK:

4 Q As we were talking a moment ago, the only
5 real concerns of Mr. Epes were safety and space; is
6 that correct?

7 A Yes, and the location of the space, he
8 preferred another location. But those were, as I
9 recall, the major objections.

10 MR. O'CALLAGHAN: Just so we are clear
11 also, we talked earlier about the letter that
12 Mr. Epes sent which also talks about concerns about
13 controlling utility costs; I think that was also
14 mentioned; isn't that right, Ms. Herr?

15 THE WITNESS: Yes.

16 MR. FROMEWICK: We are specifically talking
17 at the location at this point, not the workout of the
18 lease.

19 MR. O'CALLAGHAN: I'm sorry, it is tough to
20 distinguish. You said "his only concern" so that
21 might be -- it might be interpreted that his only
22 concerns in the world -- I just wanted to make sure

1 we are clear on that.

2 MR. FROMEWICK: Okay, but now we are
3 talking more about the location than the workout.

4 MR. O'CALLAGHAN: I'm sorry, I wasn't
5 trying to --

6 MR. FROMEWICK: That's all right.

7 BY MR. FROMEWICK:

8 Q Now, in terms of the safety or the
9 location, there was an agreement that Madison would
10 provide certain security?

11 A Yes.

12 Q Was that unusual, for a landlord to supply
13 security for a tenant coming in?

14 A It usually was not necessary to have that
15 type of security. Some buildings that we leased
16 space in did have security guards and some did not.
17 But by the -- they were a bank and I guess they were
18 going to have to have security there anyway.

19 Q Had you ever negotiated for security
20 before, in other leases, with other entities?

21 A I don't recall specifically having
22 negotiated security.

1 Q And the other was the space. Now, you had
2 an architect very early on, if I understand, working
3 with you and Madison and ADFA in trying to trying to
4 come up with good space arrangements; is that
5 correct?

6 A That's right.

7 Q And in your mind now -- not Mr. Epes's
8 mind, but in your mind -- how successful was the
9 architect in meeting some of those demands that were
10 given to you by ADFA?

11 A It was a workable floor plan, as I recall.

12 Q So I would gather by that answer that you
13 had some disagreement with Mr. Epes's conclusion that
14 there wasn't enough space because you saw a plan that
15 worked it out?

16 A Yes, just a little smaller offices than
17 what he wanted, as I recall. And we -- "we" being
18 the architect and I -- didn't have as many concerns
19 as he did.

20 Q Did you ever feel that Mr. Epes was being
21 at all unreasonable?

22 A Oh, I don't know if I would characterize it

1 as unreasonable.

2 Q How would you characterize it?

3 A Well, he was adamant. He just simply did
4 not want to move to that area, and I think his
5 employees were giving him some of those concerns.

6 Q Yet if I understand your earlier testimony,
7 about a year later you negotiated more space and more
8 employees moved in?

9 A Right.

10 Q Would you say that having more employees
11 moved in and having more space a year later helped
12 improve the neighborhood as well?

13 A Well, it certainly should.

14 MR. O'CALLAGHAN: Did we ever establish
15 that it did help improve the neighborhood?

16 MR. FROMEWICK: I am asking her.

17 MR. O'CALLAGHAN: You said improve it as
18 well. I don't know if we had established what impact
19 it had on earlier --

20 MR. FROMEWICK: I think Ms. Herr testified
21 earlier moving a state agency into a neighborhood
22 like that would be an improvement.

1 MR. O'CALLAGHAN: We did not have any
2 testimony whether it did improve the neighborhood.
3 If we could get that, that would be great.

4 BY MR. FROMEWICK:

5 Q The year after they moved in, the first
6 set, did you visit the neighborhood?

7 A Yes.

8 Q Did you see any difference in the
9 neighborhood; were you able to see if there was any
10 improvement?

11 A There was a lot more activity in that area,
12 business activity in that area.

13 Q Is that a good thing?

14 A Yes.

15 Q So that was an improvement?

16 A Yes.

17 Q Moving more people in a year later would be
18 more activity, even more improvement --

19 A Yes.

20 Q -- is that right?

21 A Yes.

22 Q Now, when Epes wrote you the rejection

1 letter, had you -- was that unusual to get a letter
2 like that? How is it normally done? Is it by
3 telephone, is it just -- when you got that letter,
4 did it essentially say this deal is over, continued,
5 or is that just part of a negotiation?

6 A Different negotiations were handled
7 differently. I don't -- I don't think that we
8 routinely got letters of rejection because normally
9 we worked out our difficulties with an agency,
10 without it coming to that.

11 Q And in your mind, you thought you had
12 worked out the differences, hadn't you?

13 A No, I don't think I -- I never did think
14 that I had -- that we had sold the agency on the
15 move.

16 Q But in terms of what the agency had been
17 asking for, increased security and good space or
18 floor plan, those were -- those had been addressed?

19 A Yes, they had.

20 Q So, in those terms, you had worked out some
21 sort of compromise?

22 A Yes.

1 Q Now, when you spoke to Mr. Epes and told
2 him that perhaps he should speak to a higher
3 authority --

4 A Yes.

5 Q -- you said earlier you meant you thought
6 the governor, that perhaps he should speak to the
7 governor?

8 A As I recall that conversation, I had the
9 impression that he was going to speak to the governor
10 or the governor's office.

11 Q What gave you that impression?

12 A Well, I think he told me that, that he
13 would call him. As I recall, I told him that
14 Mr. Mallard had made the decision that they would
15 relocate to that space, and that I had done all I
16 could to present his case that he did not want to
17 move in there.

18 Q So you didn't suggest that he speak to
19 Mr. Mallard, did you? After all, Mr. Mallard had
20 made the decision.

21 A I don't think I did. I don't recall
22 telling him he needed to call Paul. I don't recall

1 that. Memories are fuzzy after 11 years.

2 Q We hear a lot of that.

3 A I am sure you do.

4 Q Now, there was a two- or three-month period
5 between the time that you first got the Madison
6 proposal, or first became aware of it, and the time
7 that the lease was agreed to; is that correct?

8 A I think so, yes.

9 Q During those two, three months, did you
10 continue, for any of that portion of time, to look at
11 other proposals, to seriously consider other spaces
12 that either Epes had suggested or had been bid to
13 you?

14 A I don't remember specifically if we were
15 still looking at those other locations or not. I
16 know we were working on floor plans; we went back and
17 forth numerous times with changes and floor plan
18 arrangements.

19 MR. O'CALLAGHAN: Are you referring to with
20 other people or was that just with Madison?

21 THE WITNESS: I said I'm not sure if we
22 had -- if we were still looking at the other

1 proposals that had been submitted or not at that
2 point. But I do know that, since we'd been asked to
3 try to work it out with Madison, that we were redoing
4 floor plans back and forth and working on specifics
5 of the arrangement of the space.

6 BY MR. FROMEWICK:

7 Q At what point did the other proposals go by
8 the wayside?

9 A I'm not sure exactly when they went by the
10 wayside.

11 Q But there was a period of time when they
12 overlapped with Madison, that Madison was a possible
13 site and there were other possible sites; did they
14 overlap at all?

15 A Yes, I believe they did. It was all in
16 that same time frame.

17 Q So during that time frame, had -- and I
18 know I am asking you a hypothetical now, but had
19 another proposal come from that same Quapaw quarter
20 that was a reasonable proposal, would that have been
21 given consideration?

22 A I just don't know. That's a little too

- 1 hypothetical.
- 2 Q Okay, then we will forget about it.
- 3 A Okay.
- 4 Q I would like to talk a little bit about
- 5 some of the complaints they had. By the way, they
- 6 had some complaints the first year about janitorial
- 7 and maintenance service; is that right?
- 8 A As I recall, they did.
- 9 Q During the first year; I wanted to make
- 10 that clear that it was before they signed the second
- 11 lease that they had some complaints?
- 12 A I'm not certain of that. I cannot be quite
- 13 certain of that, exactly if they complained prior to
- 14 that second lease or not.
- 15 Q Was it unusual for you to get complaints
- 16 from a tenant about one of the buildings that they
- 17 were in?
- 18 A Not at all.
- 19 Q That happened all the time?
- 20 A Oh, yes, daily.
- 21 Q So from that point of view, Madison wasn't
- 22 an egregious kind of landlord?

- 1 A We had -- janitorial complaints were
- 2 constant.
- 3 Q Do you know if Madison was able to
- 4 alleviate the problem?
- 5 A As I recall, they did change their
- 6 janitorial company during that period of time, and
- 7 that probably was in an attempt to alleviate the
- 8 complaint.
- 9 Q Now, at some point you became aware that
- 10 ADFA needed more space; is that right?
- 11 A Yes.
- 12 MR. O'CALLAGHAN: I think she mentioned it
- 13 was an ongoing concern.
- 14 MR. FROMEWICK: Okay, it was an ongoing
- 15 concern.
- 16 BY MR. FROMEWICK:
- 17 Q Was it unusual for Madison, from your point
- 18 of view, to say hold off, we have some space coming,
- 19 or possibly will have some space in this very same
- 20 building that will open up?
- 21 A No, that wouldn't have been unusual.
- 22 Q In fact, wouldn't that be prudent?

1 A Sure.

2 Q You would get the very same -- rather than
3 have one agency occupying two spaces, they would all
4 be in the same building?

5 A Right. I think I said to you earlier, or
6 said in the earlier questions, that it wouldn't have
7 made any fiscal sense at all to move out in that
8 short a period of time.

9 Q Not only from a fiscal point of view, just
10 having all the workers from the same agency in the
11 same place would make sense?

12 A Right, definitely.

13 Q Now, from your personal knowledge, do you
14 know how that space opened up?

15 A No, I really don't.

16 Q All you know is that, at that point, it
17 wasn't there, and a year later it was, and they moved
18 in?

19 A Yes.

20 Q And in terms of the negotiations for the
21 second year, was there anything, from your point of
22 view, that was remarkable about those negotiations?

1 A No.

2 Q Was there anything, from your point of
3 view, that was remarkable about the final lease that
4 was written up?

5 A No.

6 Q Was the price -- I believe it was -- it
7 went from 8.50 to 9.32, that's a little less than a
8 10 percent raise in a year, that was unusual?

9 A No, not when all things would be
10 considered, it wouldn't have been.

11 Q In fact, wouldn't it have been probably
12 cost saving, because there had already been work in
13 that building on their space by the time they moved
14 in?

15 A You mean instead of going out and leasing
16 something else?

17 Q Right, and starting new construction, and
18 finding new -- getting a new architect and new floor
19 plans.

20 A Yes.

21 Q They were already familiar with the
22 building.

1 They already had floor plans for the
2 building, and it made sense to move into the same
3 place if they could?

4 A Yes.

5 Q Now, when the revenue department moved in,
6 they moved in directly across the street; is that
7 right?

8 A Yes.

9 Q And that was about a year and -- do you
10 have the exact date when the revenue moved in?

11 MR. O'CALLAGHAN: I think the lease that we
12 have -- we just got this in, you will have to excuse
13 me.

14 MR. FROMEWICK: We are looking at documents
15 that we saw during our little break, so I am letting
16 Majority counsel help me.

17 MR. O'CALLAGHAN: We have a lease agreement
18 dated the 7th of November 1985 with Madison Financial
19 Corporation, and the Department of Finance and
20 Administration revenue division.

21 BY MR. FROMEWICK:

22 Q That's a year and a half after the initial

1 lease, a little more, a year and seven months.

2 Now, in that period of time, do you have
3 any knowledge of what the neighborhood was going
4 through in that year and a half? Had it improved? I
5 think you mentioned there were certainly more people
6 there.

7 A Yes.

8 Q Any other -- by the way, was there other --
9 what other signs improvement were in the
10 neighborhood? Were other -- was this generally a
11 neighborhood that was in the process of being built
12 up?

13 A Yes, there were attempts in that time frame
14 to rehab other older buildings in that neighborhood.

15 Q So the neighborhood that the revenue
16 department moved into was a little bit better than
17 what ADFA had moved into a year and a half earlier?

18 A Yes.

19 Q So all in all, the movement of these two
20 agencies was a good thing for the neighborhood?

21 A Yes.

22 MR. O'CALLAGHAN: That's assuming that the

1 agencies are the factors that caused any improvement
2 in the neighborhood.

3 MR. FROMEWICK: From the criteria we spoke
4 of earlier, people around, activity, certainly.

5 BY MR. FROMEWICK:

6 Q And the governor would certainly be a
7 person who was most interested in seeing a
8 neighborhood like that being improved; is that right?

9 A Yes.

10 MR. FROMEWICK: I don't think I have any
11 other questions at this time.

12 EXAMINATION

13 BY MR. O'CALLAGHAN:

14 Q Ms. Herr, I just have a couple of follow-up
15 questions and then we should be finished shortly.

16 With regard to the meeting or the
17 discussions you had with Mr. Mallard and
18 Mrs. McDougal --

19 A Yes.

20 Q -- you said it wasn't routine for
21 Mr. Mallard to call you in to talk with people who
22 were pitching space for lease; is that right?

1 A I said it wasn't routine but it was not
2 unusual. We had -- the agency would frequently have
3 people that would call with various space that they
4 wanted to offer to the state to lease.

5 Q Okay, did you -- did Mr. Mallard call you
6 in his office to meet with anyone else who was
7 bidding for the ADFA leases?

8 A No.

9 Q And I believe you were also asked whether
10 you were told to treat this proposal any differently
11 during that meeting. And then you said you were not
12 asked to treat it differently at that time. I just
13 want to make it clear, see if you were told at any
14 time to treat it differently.

15 A Well, later on, when the objections of the
16 agency came up, Mr. Mallard made it clear that we
17 were going to lease the space from Madison; he
18 overruled the objections.

19 Q And other than that, were you told to treat
20 it differently?

21 A I don't recall that I was.

22 Q Earlier I had asked you whether you -- we

1 had discussed the concerns that Mr. Epes had with
2 moving into the space and his objection to moving
3 into the space, and you said you presented those
4 objections to Mr. Mallard; is that right?

5 A Yes.

6 Q And I believe you also -- I just want to
7 make sure -- you stated earlier that you agreed with
8 his concerns?

9 A Yes, because he just was so unhappy about
10 the whole lease agreement, and I argued his concerns,
11 but once the decision was made, it was not something
12 that I couldn't live with and support.

13 Q Were his concerns about the space problems
14 reasonable?

15 A They were reasonable, but it wasn't
16 something that couldn't have been overcome.

17 Q During the period 1984 through 1985, were
18 there any other state agencies that moved into the
19 Quapaw quarter, other than ADFA, into the Madison
20 building?

21 MR. FROMEWICK: That was a compound
22 question. Just one second. That was a compound

1 question. Was it moved into the Quapaw or moved into
2 Madison or both?

3 BY MR. O'CALLAGHAN:

4 Q The Madison building was in the Quapaw
5 quarter; is that right?

6 A Yes.

7 Q Other than ADFA moving into the Quapaw
8 quarter, did any other agencies move into the Quapaw
9 quarter?

10 MR. FROMEWICK: Into the Quapaw quarter?

11 BY MR. O'CALLAGHAN:

12 Q Do you understand the question?

13 A Yes, I understand.

14 Q Other than ADFA moving into the Madison
15 building, did any other state agencies move into the
16 Quapaw quarter during 1984 and 1985?

17 A No.

18 Q Just so we are clear, I think we talked
19 about the revenue division moved into the quarter as
20 well; is that right?

21 A Yes, they moved in later.

22 Q And that was also into a Madison building;

1 is that right?

2 A Yes.

3 Q But other than those two, you are not aware
4 of any other state agencies that moved into the
5 Quapaw quarter?

6 A That's right, I am not.

7 Q When were you first told that the Madison
8 proposal was the favored proposal for the agency?

9 A Well, I'm not sure that I was -- I knew
10 that Mr. Mallard favored that proposal early on.

11 Q Soon after it was -- soon after it was
12 received?

13 A Yes.

14 Q Would you say within a week, two weeks, a
15 month?

16 A Yes.

17 Q I'm sorry, which one?

18 A Yes, I don't know exactly when, but I did
19 know that he did favor that proposal.

20 Q And your recollection, it was shortly after
21 it was received?

22 A Yes.

1 Q And I want to be clear, ADFA left the
2 Madison space before the lease term expired; is that
3 right?

4 A Yes.

5 Q And I just want to make sure actually, do
6 you recall what caused that, that departure?

7 A Madison quit maintaining the building, and
8 Wooten had growing concerns about the maintenance of
9 the building, and the security issues.

10 Q Did he still have problems with the space?

11 A I don't recall that that was an issue as
12 much as it was that the maintenance of the building,
13 it was dirty.

14 Q The security problem was one they continued
15 to have over a couple of years; is that right?

16 A Yes.

17 MR. O'CALLAGHAN: I have no further
18 questions at this time.

19 MR. FROMEWICK: I have just a couple of
20 follow-ups. This means we are really close to the
21 end.

22 EXAMINATION

1 BY MR. FROMEWICK:

2 Q Mr. O'Callaghan asked you if any other
3 bidders had been called into Mr. Mallard's office to
4 meet you and you said no. But at the point that you
5 met Ms. McDougal, they weren't actually a bidder,
6 were they; you had never received a proposal from
7 them?

8 A Right.

9 Q So had this meeting never taken place, at
10 that point they are not a bidder?

11 A That's right.

12 Q Bidders generally sent you proposals?

13 A Right.

14 Q And occasionally people that, for other
15 reasons, that might not have had an official bid in,
16 might meet you the way you met Ms. McDougal?

17 A Yes.

18 Q Now, when Mallard pretty much told you that
19 the Madison proposal was the one you were going to go
20 with, did he specifically use the words "because the
21 governor wants this"?

22 A No.

1 Q What did he tell you?

2 A He said the governor's office wanted us to
3 lease this facility.

4 Q Was it -- from your point of view, did
5 Mallard want it as well?

6 A Yes.

7 Q And why did Mallard tell you he wanted it?

8 A He wanted to support the McDougals also.

9 Q And he told you that in those words?

10 A I can't say he specifically said that but I
11 knew that he wanted to. He was quite interested in
12 it.

13 Q But how did you know that? The reason I
14 ask you that is, I would like you, if you can, to try
15 and separate what you knew as a general proposition,
16 living in a small town, about who was friends were
17 who, and what you found out, specifically during the
18 performance of duties of your job.

19 And there is -- it is not really a fine
20 line. There is a big distinction between the two.
21 It is one thing for --

22 A It is hard to do after this long a period

1 of time has gone by and so much has been said about
2 it now.

3 Q So back up if we can to that period of
4 time, yes, you knew that McDougals and Clinton were
5 friends, and you said you knew that Mallard was
6 friends of the McDougals'?

7 A He was friends and he would talk about
8 seeing them in a social setting. And I don't recall
9 exactly what he said to me when he told me that we
10 were not going to consider other proposals, only the
11 Madison proposals. But as I recall, he said the
12 governor's office wants us to lease this space, and
13 that's the way it is going to be.

14 Q And you are quite clear about that?

15 A That's the way I recall it.

16 Q Okay. And just on one final note, from
17 your point of view, the space met all the needs of
18 ADFA?

19 A Yes.

20 MR. FROMEWICK: Okay. I have no further
21 questions.

22 MR. O'CALLAGHAN: I have two more quick

1 ones and that should be it.

2 EXAMINATION

3 BY MR. O'CALLAGHAN:

4 Q When you brought the objections from
5 Mr. Epes to Mr. Mallard's attention, you mentioned
6 earlier that again the sentiment was expressed the
7 governor's office wanted to lease that space; is that
8 right?

9 A Yes.

10 Q And that there was mention that the
11 McDougals and the Clintons were friends; is that
12 right?

13 A Yes.

14 Q And that Mr. Mallard was friends with the
15 McDougals?

16 A Yes.

17 Q Okay. And with regard to Mr. Mallard's and
18 yours and Mrs. McDougal's meeting, was that a first
19 attempt by Madison to make a bid on getting the
20 leasing contract?

21 A Did you say was that the first attempt?

22 Q Yes.

1 A Yes, I believe it was.

2 Q Did they -- after that meeting, did they
3 submit a written proposal or did she have one ready?

4 A I don't remember if she had one or later
5 sent one.

6 Q Did you have any personal meetings with
7 Mr. Mallard and anyone else who made a bid for the
8 ADFA lease project?

9 A No.

10 MR. O'CALLAGHAN: That's all I have.

11 MR. FROMEWICK: I think that we are
12 finished.

13 MR. O'CALLAGHAN: Off the record.

14 (Discussion off the record.)

15 MR. O'CALLAGHAN: Ms. Herr, I want to thank
16 you for taking the time to speak with us and I
17 understand the difficulty it is to recall the
18 events. We appreciate your frank responses to our
19 answers. We have no further questions at this time.

20 Is there anything you would like to clarify
21 before we sign off here?

22 THE WITNESS: Now, I did want to clarify

1 one thing. You will send me a copy of this for my
2 review; is that right?

3 MR. O'CALLAGHAN: Yes, we will, and we
4 will -- along with that, we will send a copy of an
5 errata sheet you can make corrections on.

6 And in the event you are called for public
7 hearings, you will be provided with a copy of the
8 deposition.

9 THE WITNESS: When will you know that?

10 MR. O'CALLAGHAN: Probably within the next
11 couple of days actually, so as soon as -- whether or
12 not you will be called to testify, as soon as we
13 learn that, I will contact you and give you notice of
14 that.

15 THE WITNESS: Okay.

16 MR. O'CALLAGHAN: And so with that said,
17 Counsel, do you have any further questions?

18 MR. FROMEWICK: No, we don't.

19 MR. O'CALLAGHAN: Ms. Herr, thank you
20 again.

21 THE WITNESS: Thank you.

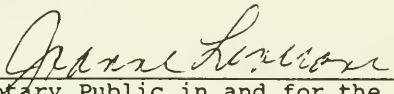
22 MR. O'CALLAGHAN: Go off the record.

1 (Whereupon, at 2:58 p.m., the deposition
2 was concluded.)
3

4 -----
5 HELEN HERR
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

**DEPOSITION OF GREGORY M. HOPKINS
IN RE: S. RES. 120**

WEDNESDAY, FEBRUARY 14, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of GREGORY M. HOPKINS, called
for examination pursuant to notice of deposition, at 10:30 a.m. in
Room 640-A of the Hart Senate Office Building, before JOANNE
LIVERANI, a Notary Public within and for the District of Colum-
bia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.
Majority Associate Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

TIM FOX, Esq.
1000 West Second Street
Little Rock, Arkansas 72201
On behalf of the Deponent.

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P R O C E E D I N G S

1
2 MR. BARTOLOMUCCI: Good morning. My name
3 is Chris Bartolomucci. As you know, this is a
4 deposition being conducted pursuant to Senate
5 Resolution 120. That resolution establishes a
6 Special Committee administered by the Banking
7 Committee to conduct an investigation of Whitewater
8 Development Corporation and related matters,
9 including matters related to Madison Guaranty Savings
10 & Loan.

11 This deposition is being conducted in
12 advance of public hearings, at which you may or may
13 not be called to testify, Mr. Hopkins, and I think it
14 likely that you will be called to testify.

15 I will be asking you questions under oath.
16 If at any time you don't understand a question,
17 please let me know and I will rephrase it. And
18 similarly, if at any point in time you need a break,
19 just let me know.

20 The court reporter is going to prepare a
21 record of the questions and answers. And your
22 deposition will be treated as Committee confidential

4

1 until the commencement of the hearings.

2 Prior to the hearings, we will give you a
3 copy of the transcript of your deposition so that you
4 can make any corrections to it, and you will also be
5 provided with a copy in advance of any scheduled
6 appearance before the Senate.

7 I note that you are represented by counsel
8 today, as is your right. Would counsel state an
9 appearance for the record.

10 MR. FOX: Yes, this is Tim Fox. I am
11 appearing as attorney for Gregory M. Hopkins today.
12 And for purposes of the record, as we discussed off
13 the record, Chris, we have agreed to the taking of
14 this deposition telephonically and we have also
15 agreed that the court reporter in D.C. can swear
16 Mr. Hopkins via the telephone. But as we've also
17 visited about, we are specifically not agreeing to
18 any jurisdiction in D.C. to ultimately resolve any
19 dispute with respect to the taking of this
20 deposition, because the witness is here in Arkansas,
21 and we didn't want to be submitting impliedly by
22 allowing the deposition to be taken telephonically or

1 by the court reporter being there.

2 The only other thing we spoke about off the
3 record, it is my understanding that the Senate
4 practice is that with respect to errors and
5 corrections, that the practice is that the deposition
6 be submitted to the witness for his or her review at
7 least four days prior to any scheduled public
8 hearing. Is that correct?

9 MR. BARTOLOMUCCI: I think that reflects
10 what we said off the record.

11 MR. FOX: That's fine then.

12 MR. BARTOLOMUCCI: Objections to the form
13 of the questions will be noted for the record and
14 counsel may also object to questions on grounds of
15 privilege or scope. The committee Chairman, however,
16 may rule on objections, if you refuse to answer a
17 question.

18 You want to go ahead and swear in the
19 witness.

20 Whereupon,

21 GREGORY M. HOPKINS

22 was called as a witness and, having first been duly

1 sworn, was examined and testified as follows:

2 EXAMINATION

3 BY MR. BARTOLOMUCCI:

4 Q Mr. Hopkins, would you please give me a
5 brief summary of your educational background,
6 starting after high school.

7 A I have a bachelor of science in real estate
8 and insurance from Arkansas State University in
9 Jonesboro, Arkansas in 1978.

10 My law degree was obtained 1981, conferred
11 by the University of Arkansas School of Law,
12 Fayetteville, Arkansas. I have been in law practice
13 since 1981.

14 I have some postgraduate work in
15 international business, but no degree has been
16 conferred yet, and that's from Webster University in
17 St. Louis.

18 MR. BARTOLOMUCCI: Off the record.
19 (Discussion off the record.)

20 MR. BARTOLOMUCCI: Back on the record.

21 BY MR. BARTOLOMUCCI:

22 Q Now, Mr. Hopkins, you have been engaged in

1 the practice of law since 1981?

2 A Yes, sir.

3 Q And have you been -- have you been a solo
4 practitioner at that time or associated with any
5 firm?

6 A I worked for a law firm from the middle
7 part of 1981 following graduation until April 1,
8 1984, at which time I established my own firm, but I
9 am not a solo practitioner. I have attorneys that
10 work for me.

11 Q What was the firm that you worked for
12 during the '81 to '84 period?

13 A Laser, Sharp, Haley, Young & Huckabay.

14 Q And where is that firm based?

15 A Little Rock. But it has divided several
16 times so it no longer exists in the configuration it
17 was in when I worked for it in the early 1980s.

18 Q Can you spell the names of the principals
19 in that firm?

20 A L-a-s-e-r, S-h-a-r-p, H-a-l-e-y, Y-o-u-n-g,
21 and H-u-c-k-a-b-a-y.

22 Q Since 1984 you have had your own law firm?

1 A Correct.

2 Q Is that now known as the Hopkins Law Firm?

3 A Hopkins Law Firm, a Professional
4 Association is the official corporate legal name of
5 the entity.

6 Q So I take it your a member of the bar of
7 the state of Arkansas?

8 A I am since 1981.

9 Q Are you a member of the bar of any other
10 state?

11 A No, but certain federal bars.

12 Q Can you tell me what the areas in which you
13 practice law?

14 A My practice is concentrated in commercial
15 and business law, both litigation and
16 transactional/office practice.

17 Q What about bankruptcy?

18 A That falls inside that area.

19 Q Okay. With respect to the bankruptcy work
20 that you do, do you typically represent debtors,
21 creditors or both?

22 A Both. The emphasis has been more on

1 representation of Chapter 11 debtors than any other
2 area, but I have in bankruptcy represented debtors,
3 secured creditors, unsecured creditors, creditors
4 committees, and trustees. So I've represented pretty
5 well all the participants that you might expect in a
6 bankruptcy proceeding.

7 Q Okay. And you told me that you also
8 practice -- you also do litigation?

9 A That's correct. I consider bankruptcy a
10 subspecies of litigation.

11 Q Okay, fair enough.

12 Now, have you ever represented a man named
13 Charles Peacock, III?

14 A Yes, sir.

15 Q And who is Charles Peacock?

16 A Charles Peacock, III, to be contrasted with
17 certain other Charles Peacocks, who I will refer to
18 as Charles Peacock because the others are referred to
19 by other shortened names, but Charles Peacock is an
20 individual who resides in White County, Arkansas,
21 near the Council of Bald Knob, two words.

22 Mr. Peacock was heavily involved in row

10

1 crop farming in the late '70s, early '80s. He also
2 had interest in certain businesses and he has since
3 fallen on some hard times financially, and I am not
4 sure what he does at this point, since I no longer
5 represent him.

6 Q When did you first represent Mr. Peacock?

7 A It would have been sometime between 1981
8 and 1984. I mark that date because the commencement
9 of my representation started while I was still with
10 the Laser firm.

11 Q And prior to the time at which you began to
12 represent him, did you know him?

13 A Only by name or casual acquaintance. My
14 family grew up in White County about 15 miles from
15 where Mr. Peacock and his family resided, so I knew
16 of the family, although I don't know that I'd ever
17 met -- I know I'd never had any serious interaction
18 with Mr. Peacock before my professional interaction
19 occurred.

20 Q Now, did you continue to represent him,
21 that is Mr. Peacock, after you left the Laser firm
22 and established your own law firm?

1 A I did.

2 Q And would that include the year 1987 -- let
3 me rephrase that.

4 Did you represent Mr. Peacock in 1987?

5 A I think that's correct. There were some --
6 there were time periods in my representation of
7 Mr. Peacock where I had a number of engagements
8 ongoing, and then there were a few time periods that
9 I believe I may have had either no engagement or very
10 limited engagements.

11 But suffice it to say that my
12 representation of Mr. Peacock started somewhere in
13 the '81 to '84 era, and I believe it ended somewhere
14 around or near 1990, maybe '88, '89, '91 but
15 somewhere around 1990. So about a seven-, eight-,
16 nine-year relationship.

17 Q So somewhere between '89 and '91 is the
18 last time you represented Mr. Peacock?

19 A Yes, when we confirmed his personal Chapter
20 11, and he was released from the jurisdiction of the
21 bankruptcy court, we terminated on a mutual basis.

22 Q Now, during the time that you represented

12

1 Mr. Peacock, were you aware that he was a director of
2 Madison Guaranty Savings & Loan?

3 A At certain times. I don't believe he was
4 continually for the whole time period, but I know at
5 certain times, or I do recall at certain times, he
6 was a director, at least that's my recollection.

7 Q Okay. I am not trying to hide anything
8 from you. I will tell you that I have a copy of some
9 Madison Guaranty board minutes which reflect that
10 Charles resigned from the board on March 28th, 1985,
11 so does that cohere with your knowledge?

12 A Generally it does. At some point he was on
13 the board, and it is my recollection that his son
14 went on the board after that, who was Charles
15 Peacock, IV. The timing of that I don't remember,
16 but I do remember generally that's what happened
17 during this time frame.

18 Q Okay. So you would agree with me that
19 during the mid-1980s, Mr. Peacock was a Madison
20 director?

21 A At certain times, yes, sir.

22 Q And were you also aware that Mr. Peacock

1 owned stock in Madison?

2 A Yes, either he did or members of his
3 family. I was aware that the Peacock family, of
4 which he was the patriarch, did have minority stock
5 in the Madison entity.

6 Q Now, during the mid-1980s, what is your
7 understanding as to who owned Madison? Who was the
8 majority shareholder?

9 A The majority shareholder, at most times
10 during this time period, at least after it became,
11 for lack of a better term, based in Little Rock, even
12 though its home office was still in McCrory, from the
13 time it became based in Little Rock and changed its
14 name from Woodruff Savings & Loan to Madison, it was
15 Jim McDougal or Jim and Susan McDougal.

16 Q Susan McDougal being Jim's wife?

17 A Yes.

18 Q What is your understanding of the
19 relationship between Jim McDougal and Charles
20 Peacock?

21 A Can you elaborate a little bit? They
22 did -- they had a lot of interaction in various ways,

1 so if you could maybe narrow the question a little
2 bit, I will see if I can help.

3 Q Well, I guess we have already established
4 that Peacock was on the board of directors of Madison
5 so he will have interacted with Mr. McDougal in that
6 capacity; correct?

7 A That's correct.

8 Q And are you aware of any business dealings
9 that McDougal and Peacock had together?

10 MR. PORTNOY: Is this McDougal personally
11 or McDougal as the representative of Madison
12 Guaranty?

13 MR. BARTOLOMUCCI: I am speaking right now
14 about McDougal and Peacock in their personal
15 capacities.

16 THE WITNESS: I have no memory one way or
17 another. I mean, I certainly don't remember any
18 specific personal transactions that they were
19 involved in. It is possible there were -- it is
20 probably more likely that there weren't any personal
21 deals.

22 BY MR. BARTOLOMUCCI:

1 Q What about Mr. Peacock and Madison Guaranty
2 or its subsidiary, Madison Financial Corporation, to
3 your knowledge, were there business dealings between
4 Peacock and those Madison entities?

5 A Yes. I know there were some loan
6 arrangements and I think there may have been some
7 other business transactions, but I'm not sure I was
8 privy to all of those. But yes, there was a -- in
9 addition to the directorship relationship, there was
10 a relationship between Mr. Peacock or affiliated
11 persons or entities, and one or more of the Madison
12 entities.

13 Q Okay. So, among other aspects of the
14 relationship, Mr. Peacock and corporate entities
15 affiliated with him obtained loans from Madison
16 Guaranty?

17 A Correct.

18 Q And to your knowledge, did Mr. Peacock or
19 his entities do any development work for Madison,
20 land development?

21 A I have general impressions that that
22 occurred. I don't have any specific memory at this

16

1 point in time. And it is possible that that may all
2 have occurred during one of those time periods where
3 my involvement, representational involvement with
4 Mr. Peacock was at a limited stage or a limited
5 status.

6 So I am generally aware that I think there
7 was some of that going on, but I don't have any
8 specific recollection of it now. And I am not sure I
9 had any specific knowledge of it at that point in
10 time. I think that was later in -- I think that was
11 at the tail end of the Madison-Peacock relationship.

12 Q During the mid-1980s, did you have any
13 understanding as to the relationship between Jim
14 McDougal, and Governor Bill Clinton?

15 A No -- well, in what way?

16 Q Let's start with this: Did you know that
17 Jim McDougal and Bill Clinton knew each other?

18 A I would have assumed that. I don't recall
19 whether I knew it specifically, because someone had
20 told me they knew each other or anything. But any
21 major business person in the state of Arkansas, and
22 Mr. McDougal at that point was a very major player in

1 the business community, any major player in the
2 business community in the state of Arkansas knew
3 Governor Clinton and he knew them.

4 So yes, I would have known they knew each
5 other.

6 Q So in the mid-'80s, you would have known,
7 or would have assumed at least, that McDougal and
8 Clinton knew each other?

9 A I would have assumed that.

10 Q Were you aware during that same time period
11 of any business dealings between McDougal or Madison,
12 on the one hand, and Governor Clinton on the other?

13 A No.

14 Q Have you subsequently come to learn of any
15 business dealings between McDougal or Madison and
16 Bill Clinton?

17 A The only thing that I am aware of, as far
18 as business dealings between McDougal or Madison on
19 one hand, and Governor Clinton, now President Clinton
20 on the other hand, would be what I read in the paper.

21 Q Okay. Now, during the mid-1980s period,
22 what was your understanding as to McDougal's

1 relationship with Jim Guy Tucker?

2 A My memory of that particular period is
3 fairly limited. I do have some vague recollection
4 that there was a connection outside of Madison
5 between McDougal and Tucker, being -- perhaps it went
6 back to when Tucker was in Congress; probably
7 something I would have gleaned through the newspapers
8 or through word on the street, word in the
9 community.

10 At this point, I don't recall exactly what
11 I did know about their relationship in the
12 mid-1980s. I don't know what I knew contemporaneous
13 with anything that was going on in the 1980s.

14 Q Would you have understood the relationship
15 between McDougal and Tucker to include a business
16 relationship? Once again, probing your knowledge
17 during the mid-1980s.

18 A It's possible. I don't have any real
19 memory or any real knowledge right now of what their
20 business relationships were, even though I know there
21 is litigation ongoing over that. So, I'm not able to
22 dredge up anything from my memory based on what I

1 knew then, what I know now, from reading the papers,
2 that would tell me what that relationship is. I
3 would be speculating to say whether I knew at that
4 point in time that they had business dealings. It
5 wouldn't surprise me either.

6 Q Now, did there come a time in 1986 when you
7 represented Mr. Peacock or one of his corporate
8 entities in connection with a Chapter 11 filing?

9 A At --

10 Q During 1986.

11 A I don't remember the specific date but I
12 seem to recall that Peacock Brothers Inc., of which
13 Charles Peacock, III, from memory, had no ownership
14 of, but it was rather owned by his sons, Charles --
15 that Peacock Brothers, Inc. did file for bankruptcy
16 at some point in time, attempted a Chapter 11
17 reorganization, that, for whatever reason, my
18 recollection is proved unsuccessful.

19 There was a subsequent personal Chapter 11
20 for Charles Peacock that did prove successful.

21 Q And that was the one that concluded in
22 around 1990?

1 A Somewhere like that. My recollection is
2 that the individual Chapter 11 was filed somewhere
3 around 1987 or 1988, and it was roughly a two-year
4 endeavor from the time it was filed to the time it
5 was confirmed, consummated and released from
6 bankruptcy. So, yes, that's consistent.

7 Q Okay. Now, records I have seem to indicate
8 that a Chapter 11 petition was filed on behalf of
9 Peacock Brothers doing business as the Peacock
10 Company on September 19, 1986. Does it -- does that
11 date sound right to you?

12 A I can't confirm that, but I don't dispute
13 it. And I have gone back and I have no records
14 remaining from that time period, so I have nothing to
15 verify it one way or the other. But I will assume
16 that you accurately state the date.

17 Q Were you representing Peacock Brothers in
18 that bankruptcy matter?

19 A I think that's correct.

20 Q And what persons comprised Peacock
21 Brothers?

22 A If memory serves correctly, that would have

1 been Charles Peacock -- would have been the three
2 sons of Charles Peacock, III.

3 Q Are you saying that Charles Peacock, III
4 was uninvolved with Peacock Brothers?

5 A No, he was -- he was an employee or
6 consultant, as memory has, but he had no stock
7 ownership.

8 Q Okay. Now, I believe you told me a little
9 while ago that that Chapter 11 proceeding was
10 unsuccessful.

11 What did you mean by it was unsuccessful?

12 A No plan was confirmed.

13 Q Do you remember why no plan was confirmed?

14 A No.

15 Q In connection with that proceeding, did
16 Madison Guaranty claim that they were owed money by
17 Peacock Brothers?

18 A I'm not sure I -- I'm not sure who all
19 Madison had loaned money to. I don't know whether
20 Peacock -- you know, as we sit here today, I am not
21 sure whether Peacock Brothers, Inc. was one of the
22 entities that borrowed money from Madison or if it

1 was one of the other entities.

2 I wouldn't be surprised either way on
3 that. It is my recollection that there were a number
4 of creditors creating financial problems for Peacock
5 Brothers, Inc., and it wasn't one specific creditor,
6 but I could be incorrect in that.

7 Q And what is your memory as to whether
8 Madison Guaranty was one of those creditors?

9 A I don't remember one way or the other. I
10 know that there were some Madison loans made to
11 certain Peacock entities, but there were a half a
12 dozen Peacock entities.

13 I would not be surprised if Peacock
14 Brothers was one of the ones that had loans
15 outstanding with Peacock Brothers, Inc. So I would
16 say it is more likely than not, but it would be a
17 guess on my part at this point.

18 Q Now, after the filing of that bankruptcy
19 matter, do you remember in 1987 representing Charles
20 Peacock and certain Peacock entities in connection
21 with a number of suits brought by Madison Guaranty?

22 A I -- it is an assumption on my part that

1 that happened in 1987. I did represent -- I can say
2 this: I did represent either Mr. Peacock or certain
3 of the entities in certain state court litigation
4 brought by Madison Guaranty.

5 '87, if that's what the public records
6 indicate, that would be correct. That's generally
7 consistent with my memory. But the years -- and I am
8 not trying to be difficult but the years from 1984 to
9 1989, with all the various Peacock activities, have
10 sort of run together and it is very difficult and, at
11 this point especially, impossible for me to say that
12 happened in 1986 or 1987 or 1988. I can say
13 generally that's consistent with my memory.

14 Q Would you agree with me that Peacock and
15 Peacock entities were sued by Madison Guaranty over a
16 number of loans that Madison alleged had not been
17 repaid?

18 A For nonpayment, yes, sir.

19 Q And you represented Peacock and Peacock
20 entities in connection with those law suits?

21 A At least on some of them; I am not sure I
22 represented them on all of the loans. There was at

1 least one other lawyer that I recall did some work
2 for the Peacocks, and I frankly don't know whether I
3 did -- whether I was the exclusive attorney or my
4 firm was the exclusive attorney for the Peacocks in
5 the Madison disputes or not.

6 Q Was this other attorney that you are
7 referring to someone who worked at your law firm, or
8 someone who worked at a different law firm?

9 A Someone who worked at a different law
10 firm.

11 Q Okay. So maybe you weren't the only person
12 or firm that represented the Peacocks, but you did
13 represent them in connection with suits brought by
14 Madison Guaranty to collect allegedly unpaid loans?

15 A Yes.

16 Q Now, I have a copy of a complaint in a case
17 called Madison Guaranty Savings & Loan Association,
18 versus Dixie Continental Leasing, K&D Landscape
19 Company, and Charles Peacock, III. Do you have any
20 memory of that lawsuit?

21 A Could you tell me what court that's filed
22 in?

1 Q Chancery Court of Saline County, Arkansas.

2 MR. PORTNOY: Could you also put a Bates
3 number on the record.

4 MR. BARTOLOMUCCI: Sure. The document is
5 identified as KCR 2512.

6 BY MR. BARTOLOMUCCI:

7 Q Let me restate my question. Do you
8 remember this lawsuit, Madison Guaranty versus Dixie
9 Continental Leasing, et al., in the Chancery Court of
10 Saline County? I believe the suit was filed on March
11 12, 1987.

12 A I have some recollection of that
13 litigation. I'm not sure that I was the primary day
14 in -- day-to-day lawyer on that litigation. I think
15 one of my employees may have dealt with that
16 litigation more than I did.

17 Q Would that have been Karen Queen?

18 A Correct.

19 Q But this suit was handled by your law firm?

20 A Sure, sure. But as far as any details of
21 it, one of the reasons my memory is sketchy is I
22 wasn't sure I was involved in that litigation on a

1 day-to-day basis.

2 Q And there were several other lawsuits filed
3 around that time, as well, also seeking collection of
4 allegedly unpaid loans; right?

5 A Yes.

6 MR. BARTOLOMUCCI: We are going to pause
7 for a moment to let the court reporter reload.

8 (Discussion off the record.)

9 MR. BARTOLOMUCCI: We are back on the
10 record. Thank you for your patience.

11 THE WITNESS: Okay.

12 BY MR. BARTOLOMUCCI:

13 Q So we know so far that you represented
14 Peacock entities in connection with a Chapter 11
15 proceeding, and that there were several lawsuits
16 filed by Madison Guaranty against Charles Peacock
17 and/or his family and his affiliate entities.

18 Now, did you personally handle any of these
19 matters, or was Ms. Queen the primary attorney on all
20 of them?

21 A That I do not remember. Ms. Queen worked
22 on a lot of the Peacock matters. I had general

1 oversight responsibility for these matters. But what
2 the division of duties and responsibilities would
3 have been on any particular litigation, I don't
4 remember at this point in time.

5 Q Was Ms. Queen an associate or a partner in
6 your firm in 1987?

7 A An associate.

8 Q Okay, and you represented Peacock because
9 you represented him when you were with the law firm
10 during the '81 to '84 period?

11 A That's correct.

12 Q So you brought Peacock into your firm as a
13 client?

14 A He was my client, yes, sir.

15 Q So you had some involvement with these
16 suits, and also supervised Ms. Queen's involvement in
17 them?

18 A Oh, sure, I don't want to give the
19 impression that I didn't have involvement with the
20 Peacock legal matters. It is just that I can't draw
21 you a bright line as to what matters I did handle and
22 did not handle during this time period.

1 MR. BARTOLOMUCCI: Off the record.

2 (Discussion off the record.)

3 MR. BARTOLOMUCCI: Thank you, Mr. Hopkins.

4 THE WITNESS: Okay.

5 BY MR. BARTOLOMUCCI:

6 Q Do you remember who represented Madison
7 Guaranty, what law firm represented Madison Guaranty
8 in connection with these suits filed against the
9 Peacocks?

10 A I know the Mitchell Firm handled some of
11 the lawsuits. I frankly don't know whether anyone
12 else did or not. I have some vague recollection
13 there may have been another firm that did some
14 Madison work, but there -- there were a number of
15 Peacock litigation matters, from Madison and other
16 creditors during this time period, so the attorneys
17 tend to all blend together in one unidentifiable mass
18 at this point in time.

19 Q But you do recall the law firm of Mitchell,
20 Williams, Selig, Mann & Tucker representing Madison
21 in connection with at least some of these suits?

22 A Correct.

1 Q Do you remember what attorneys at the
2 Mitchell, Williams firm handled these suits?

3 A Until you and I spoke for 45 minutes or so
4 over the phone three or four weeks ago, I had no
5 recollection. I now at least have some reason to
6 believe that Lance Miller dealt with some of these
7 matters. I think Marcy Taylor may have dealt with
8 one or two of these. I have some memory that maybe
9 Lyn Pruitt dealt with one or two of these matters.

10 I do remember that, for the most part, the
11 litigation was being dealt with fairly -- being dealt
12 with by fairly junior people at the Mitchell firm.

13 MR. PORTNOY: Can I ask you to clarify,
14 sir, whether this is information that you have since
15 learned, or whether you have an actual recollection?

16 THE WITNESS: I have since learned about
17 Lance Miller. I did not really remember that he was
18 involved in it until this whole episode occurred, the
19 episode that called me to participate in the
20 Committee proceedings.

21 MR. PORTNOY: Are you saying that you now
22 remember Mr. Miller was involved, or you have now

30

1 been advised that Mr. Miller was involved?

2 THE WITNESS: I have been advised
3 Mr. Miller was involved.

4 I have only general recollection -- I don't
5 have any specific recollection that he was involved.
6 I will go that far. I wouldn't be surprised if he
7 was involved with it. I do remember that Ms. Taylor
8 and Ms. Pruitt, I believe, were involved.

9 But I've dealt with Lance Miller on a
10 number of things over the years. I know that at one
11 point he left the Mitchell firm and went to a law
12 firm in Jonesboro; he was there for a number of
13 years, and came back. But I have no memory that he
14 actually dealt with this file.

15 BY MR. BARTOLOMUCCI:

16 Q So you do know Lance Miller?

17 A Oh, sure. Lance is a fine young lawyer
18 with a good firm, and he and I have butted heads on a
19 dozen or more cases over the years. I just don't
20 remember if it was this one or not, but based on what
21 I have been told, I think he probably was one of the
22 people I dealt with.

1 Q I guess at this point we just want to know
2 what you remember yourself. So prior to any attempt
3 to refresh your recollection, you don't remember
4 dealing with Lance Miller specifically?

5 A No. To be candid, I remember very little
6 about the various Peacock litigations ongoing at that
7 time period.

8 MR. PORTNOY: Off the record.

9 (Discussion off the record.)

10 MR. PORTNOY: Back on.

11 MR. BARTOLOMUCCI: Back on the record.

12 BY MR. BARTOLOMUCCI:

13 Q Was there anyone in particular at Madison
14 Guaranty you remember handling these suits or being
15 the contact person?

16 A Yes. I've seen the memo this morning and
17 read the article in the paper that talks about Pat
18 Heritage, but I don't remember that. That's contrary
19 to my memory and it is contrary to logic. Logic
20 tells me that if litigation was ongoing, I would have
21 been dealing with the attorneys.

22 So the answer to your question is no, I

1 don't remember who was a contact person once the
2 matter got into litigation, or even if there was one
3 that I had.

4 Q With respect to the Chapter 11 proceeding
5 that you were handling, do you remember Madison
6 Guaranty as being represented by the Mitchell,
7 Williams firm, filing a motion to dismiss the
8 proceeding?

9 A No.

10 Q But you do remember that that bankruptcy
11 was not confirmed; right?

12 A Yes.

13 Q Do you remember it as being dismissed by
14 the court?

15 A Not specifically, but that's what would
16 happen or that's what does happen where a case is not
17 confirmed, it is dismissed, either on motion of the
18 debtor, motion of creditor, or motion of the court.

19 How this one actually got out from under
20 the bankruptcy court jurisdiction, I don't recall. I
21 just know that it was in bankruptcy for a while, the
22 confirmation effort was unsuccessful, and the case

1 was dismissed.

2 Q What would have been the effect of that
3 dismissal from your client's point of view?

4 A Basically, that reinstates the status quo.
5 To the extent it can be reinstated, it reinstates the
6 status quo as it existed prior to the dismissal of
7 the bankruptcy. There is a -- there is an express
8 statutory provision that talks about the effect of
9 dismissal.

10 Q So would the dismissal increase the
11 debtor's exposure to claims asserted by creditors?

12 A No, shouldn't change it at all.

13 Q I mean versus a confirmed plan of
14 bankruptcy?

15 A Not necessarily. A confirmed plan can
16 propose to pay everything in full, or it can propose
17 some sort of discount on that amount; it can propose
18 a debt for equity swap. So in the abstract, it would
19 not necessarily increase the debtor's exposure to
20 claims. It may increase their litigation exposure,
21 and usually does.

22 Q What is your memory as to the terms under

1 which you were seeking to have that particular
2 bankruptcy plan confirmed?

3 A I have probably done a hundred bankruptcy
4 cases in the last nine years. Every document is
5 about a 35-page document. I couldn't tell what you
6 that plan said; I couldn't even tell you we got to
7 the stage it was feasible to file a plan.

8 I am going to assume it was a
9 rehabilitation plan that would have restructured the
10 existing indebtedness through either operations, or
11 through orderly liquidation, or a combination
12 thereof. But that's just an assumption based upon my
13 professional background and experience in the area.

14 Q Now, what is the relationship between the
15 bankruptcy action that you were pursuing and all of
16 these lawsuits that Madison Guaranty had filed
17 against Peacock and the Peacock entities?

18 A I am not sure there was a relationship.
19 Typically a litigation or threat of litigation is
20 what prompts a bankruptcy, but not always. And I
21 don't remember whether that's what prompted the
22 Peacock Brothers bankruptcy or not.

1 Q What is your memory as to the timing of
2 them? Did the -- was the -- let me ask this
3 specifically: Was the bankruptcy matter dismissed
4 prior to the filing of these suits or afterwards?

5 A That I don't know. And my experience tells
6 me it could have happened either way. It -- you
7 could have had a situation where the lawsuits were
8 pending, the bankruptcy was filed. The bankruptcy is
9 dismissed and the lawsuits resume, or they could have
10 been newly filed but I do not remember.

11 Q Do you have any memory whether the
12 dismissal of the bankruptcy action and the filing of
13 these other lawsuits were close in time?

14 A No.

15 Q Some records I've looked at seem to
16 indicate that most of these suits were filed on April
17 1st, 1987. Do you have any reason to doubt that
18 that's true?

19 A No. I mean whatever the public records
20 say. The public records relating to the Peacock
21 matters, those in the state courts and the bankruptcy
22 courts, would be the best evidence of that and much

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1 more reliable than my memory.

2 Q I am just trying to ask if you have any
3 reason to question what seems to be the case, that
4 most of the suits were filed in April, on April 1st,
5 1987?

6 A Well, no. I couldn't imagine a clerk
7 from -- I mean it is possible that a clerk maybe
8 misdated a document but I find that highly unlikely
9 and I don't know the realm of assumption. So yes, I
10 think that's probably correct. I do not dispute it.
11 I have no knowledge that would dispute that.

12 Q Okay. Some documents I have reviewed also
13 seem to indicate that the bankruptcy action was
14 dismissed on April 8th, 1987, or one week after most
15 of those suits were filed. Do you have any reason to
16 doubt that that's true?

17 A I don't doubt what the public records say
18 but I find it curious that suits were filed while the
19 bankruptcy was still pending. I think you may
20 have -- he may be missing an order there. Any action
21 taken without relief from the state while a
22 bankruptcy is pending is void ab initio, so I don't

1 know. I don't know.

2 Q Is it your testimony that a stay was issued
3 in connection with the bankruptcy matter?

4 A Absolutely. It happens automatically.
5 Section 362 of the bankruptcy code says a stay
6 happens automatically and continues in effect until
7 the case is confirmed or dismissed, or a specific
8 order to the contrary is entered.

9 Q Now, it was the Peacock Brothers who had
10 filed for bankruptcy; right?

11 A Correct.

12 Q So would that stay bar a suit against an
13 entity such as Dixie Continental Leasing?

14 A Oh, no, not necessarily so. Once again I
15 am speculating based on documents there and I will
16 quit doing that.

17 Q And it wouldn't be unusual then for suits
18 to have been filed against Peacock entities other
19 than Peacock Brothers subsequent to the filing of the
20 bankruptcy for Peacock Brothers; there wouldn't be
21 anything in bankruptcy law which would bar suits
22 against different entities?

1 A Oh, no. I mean that could have been filed
2 no matter what happened in the Peacock Brothers, Inc.
3 bankruptcy. They could have filed it while the
4 Peacock Brothers bankruptcy was ongoing unless there
5 was some other special order entered, and I don't
6 recall any.

7 Q Do you have any memory as to how much money
8 Madison Guaranty was seeking in connection with these
9 several suits?

10 A No.

11 Q Would it surprise you to learn that it was
12 in the neighborhood of half a million dollars?

13 A Nothing in lawsuits surprise me, so I
14 would -- and I don't mean to be flippant about that,
15 I guess that may be the way it sounded, but no, that
16 wouldn't surprise me.

17 Q No, that's a fair answer.

18 Do you remember placing a phone call to
19 Patricia Heritage in April of 1987?

20 A No.

21 Q Do you know who Patricia Heritage is?

22 A Yes.

1 Q Who is she?

2 A Well, it is now Pat Heritage-Hayes. Pat is
3 a friend and acquaintance of mine that I have known
4 for probably 10 years. She used to work at Madison
5 Guaranty in various roles. She went to law school,
6 worked for one of the major law firms for a period of
7 time. And I am not sure what she is doing now,
8 whether she's practicing law or not, but I've known
9 Pat for probably 10 years now or longer.

10 Q So that would mean since at least 1986?

11 A Yes. Yes. Yes, sir.

12 Q All right. And in 1986, 1987, how did you
13 know her?

14 A At that point in time, probably as much as
15 a business and social friend as I did a business
16 acquaintance. It is possible we had some
17 interaction. But Pat was in law school at the time
18 and from time to time, I would see her here or there
19 and we would discuss how law school was going, how
20 everything was going in Madison, things in general,
21 how my practice was going.

22 Q But you did know that she was an employee

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1 of Madison Guaranty?

2 A I'm assuming she was still an employee at
3 this point in time. I would most likely have known;
4 if I had run into her and said how are things at
5 Madison, she would have told me she had left, so --
6 it is a hard question to answer.

7 I knew she worked for Madison for a certain
8 period of time, what that tenure was and what I knew
9 at what time, I can't put a specific recollection
10 to.

11 Q Did you do any legal work for Madison
12 Guaranty in the '85, '86, '87 time period?

13 A I have some vague recollection I did some
14 legal work for Madison at some point, but I don't
15 think it -- I have no memory that I did anything for
16 them after they got into disputes with the Peacocks.

17 But I think I may have handled one or two
18 cases for Madison, involving bankruptcy matters,
19 where they had had loan customers go into bankruptcy,
20 prior to that time. One case in particular that I
21 recall, and I had quite a bit of transaction with
22 Patty at this point, but my recollection, that was

1 1984 or 1985. But once again, whatever the public
2 records show is what that would be.

3 Q What was that one matter that particularly
4 sticks in and out your mind?

5 A I can't remember the lady's name, but it
6 was a discharge case. And the reason I remember it
7 is the lady's defense to having her discharge denied,
8 Madison was contending she had given false financial
9 statements and her defense to -- that she told the
10 bankruptcy judge as to why she shouldn't have her
11 discharge denied was that she was allergic to ink and
12 ink made her head swell. And as a result, she
13 couldn't appropriately concentrate when she signed
14 the papers. It was such an outlandish story. It is
15 one of the half a dozen of things that I have done
16 over the years that I have a definite memory for.

17 And my recollection is that was a Madison
18 matter. I remember the case, I don't remember who
19 the client was. But I think that was Madison and I
20 think Pat was the loan officer or the workout officer
21 on that.

22 Q So this woman said that her allergy to ink

1 made her head swell?

2 A Made her brain swell inside of her head
3 cutting off her ability to reason, or some sort of
4 nonsense.

5 Q I think I must know a lot of people
6 allergic to ink then.

7 A It was a novel one. She even had a doctor
8 to testify in support of that.

9 Q Your testimony is that you dealt with Pat
10 Heritage in connection with that suit?

11 A That's my memory.

12 Q This was prior to jury representation of
13 the Peacocks?

14 A No, it was probably contemporaneous with
15 the representation of the Peacocks. It was probably
16 prior to the dispute breaking out between the
17 Peacocks and Madison. They were probably getting
18 along at that point in time, saying it slightly
19 differently.

20 Q By dispute between Peacocks and Madison,
21 you are not referring to these lawsuits we have been
22 talking about?

1 A No, I am referring to the lawsuit --

2 MR. PORTNOY: If I could clarify, I believe
3 Mr. Hopkins testified he represented the Peacocks
4 beginning sometime between '81 and '84, and I believe
5 what he is referring to is the period prior to
6 Madison's litigation with the Peacocks.

7 Is that a correct statement, sir?

8 THE WITNESS: That is correct. That is
9 what my memory is.

10 BY MR. BARTOLOMUCCI:

11 Q Okay. Just so the record is clear, your
12 involvement with Pat Heritage in this lawsuit you are
13 describing was prior to your representation of the
14 Peacocks in connection with Madison suing over these
15 loan notes?

16 A Chris, that's my memory. To put it
17 slightly differently, that was -- it is my memory
18 that any representation I had of Madison would have
19 been prior to the situation between Madison and the
20 Peacocks becoming adversarial.

21 Q I faxed your attorney a couple of documents
22 this morning. You received those; right?

1 A Correct.

2 Q If I can just describe them for the
3 record. What we have here is a document which is
4 labeled only "fundraiser 17." And I will tell you,
5 it's a series of handwritten notes written by Lance
6 Miller reflecting a conversation he had with Pat
7 Heritage on April 21, 1987. That's a one-page
8 document.

9 Then there is another document which is
10 three pages long, identified as "fundraiser 18,"
11 which is a memo that Lance Miller prepared, and
12 addressed to John Selig. This memo is dated April
13 23, 1987, and it is Mr. -- it is Mr. Miller's attempt
14 to expand upon his notes about his conversation with
15 Pat Heritage.

16 Now, if you would, sir, please -- focusing
17 on the document fundraiser 18, the typed memorandum?

18 A I have it.

19 MR. PORTNOY: Can I ask you to hold.

20 MR. BARTOLOMUCCI: Off the record.
21 (Discussion off the record.)

22 MR. BARTOLOMUCCI: Back on the record.

1 BY MR. BARTOLOMUCCI:

2 Q So turning your attention to the April 23,
3 1987 memo, and in the second paragraph there, it says
4 "on Tuesday, April 21, 1987, Ms. Pat Heritage
5 informed me that she had spoken with Mr. Greg
6 Hopkins, attorney for the Peacocks," end quote.

7 Is it your testimony that you have no
8 memory of telephoning or otherwise talking to
9 Ms. Heritage on April 23, 1987?

10 A That's my testimony. And I also note that
11 the memo doesn't indicate that I telephoned her, nor
12 does it indicate that any conversation I had with her
13 occurred on April 27, 1987. All it says is that
14 Ms. Heritage informed Mr. Miller on that date --

15 Q Let me just ask you this: Do you have any
16 memory of speaking with Ms. Heritage in April of
17 1987?

18 A No.

19 Q All right. Now, that time period would
20 have -- that would have been the same time that you
21 were representing Peacock and Peacock entities in
22 litigation against Madison; right?

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1 A I am not sure. And the reason why I
2 hesitate is you have previously told me -- and I
3 haven't seen these documents. For the record, the
4 first time I saw the two documents we are looking at
5 here today was 9:15 this morning. I haven't seen any
6 of the pleadings in connection with that litigation.

7 But if my memory is correct, you told me
8 that the lawsuits were filed on April 1st, 1987. The
9 bankruptcy was dismissed on April 8th. There would
10 be at least 20 days time for service of complaints,
11 and complaints typically are not all served on the
12 same day they are filed.

13 So I am not sure I actually was
14 representing the Peacocks during this time period or
15 not. I think I did ultimately represent them in the
16 matter, but if that was the case I was very early in
17 the representation. Based on your timing, I was very
18 early in my representation of the Peacocks in the
19 Madison litigation, state court litigation.

20 Q Okay. Do you remember talking to Pat
21 Heritage at all during 1987?

22 A Specifically in 1987?

1 Q In 1987.

2 A No, sir. I mean, I would not be surprised
3 if I did have a conversation with her in 1987 but I
4 don't remember specifically that, yes, I talk to her
5 on X day, 1987.

6 Q Well, would it surprise you that you did
7 talk to her on April 21, 1987?

8 A No. I mean, I -- like I said earlier, I am
9 seldom surprised by anything. It would not have
10 been -- it wouldn't have been out of the realm of
11 possibility that I talked to her in 1987.

12 Q Can you think of any reason why you would
13 have called her in April of 1987?

14 A No.

15 Q Well, I'll tell you very candidly that both
16 Mr. Miller and Pat Heritage are of the clear memory
17 that she did speak to you on April 21, 1987, and that
18 subsequent to that conversation, Pat called Lance
19 Miller, described the conversation to him, and that
20 he took notes of that conversation, which is the
21 handwritten documents that you have, and that he
22 subsequently typed up what he had learned about the

1 conversation from Pat Heritage.

2 Now, do you have any reason to doubt their
3 recollection?

4 A I have no reason to support or doubt their
5 recollection. You are not asking me about their
6 recollection, and I have no way of knowing what it
7 is. You are asking about mine, and very bluntly, I
8 don't have any.

9 Q No, you are right. I am asking about your
10 recollection, and I'm trying to, you know, figure out
11 whether there is any inaccuracy in their
12 recollection, so I am trying to see if you can shed
13 any light on this conversation that they say
14 occurred.

15 A I cannot. I've read the memos, you and I
16 had our conversation two or three weeks ago. Nothing
17 of that improves my memory on any conversation I may
18 have had with Pat Heritage in 1987. I don't
19 necessarily dispute that a conversation occurred, but
20 I sure don't remember it.

21 Q Let's go through these memos and see if we
22 can jog your memory any. The second paragraph of the

1 April 23 memo says, "Mr. Hopkins informed
2 Ms. Heritage that there is a move underway to have
3 our firm disqualified from representing Madison. The
4 basis of the disqualification is that Jim Guy Tucker
5 has substantial involvement with Madison and with
6 Mr. Jim McDougal, that this creates a conflict, and
7 therefore our firm should be disqualified."

8 Now, my question to you is: Do you have
9 any memory of thinking about or taking any action
10 with respect to having the Mitchell, Williams firm
11 disqualified because of -- because of Jim Guy
12 Tucker's involvement with Madison?

13 A I have no memory. The public records would
14 indicate if I ever filed such a motion to disqualify,
15 but I have no memory.

16 Q Well, and I will just be frank. We don't
17 have any record that you filed such a motion.

18 Do you have any memory of saying something
19 about seeking disqualification, to Pat Heritage?

20 A No.

21 Q Now, during 1987, what was your
22 understanding as to Jim Guy Tucker's involvement with

1 Madison?

2 A My memory in 1996 is that I have no
3 specific recollection of what I knew in 1987 about
4 Jim Guy Tucker's involvement with Madison Guaranty.
5 I may have known something at that point in time, but
6 I don't remember what it would have been.

7 Q In 1987, did you have any understanding as
8 to whether a -- there would be a conflict between
9 the -- there would be a conflict with respect to the
10 Mitchell, Williams firm representing Madison on the
11 basis of anything having to do with Jim Guy Tucker?

12 A Would you repeat that question.

13 Q Sure, I would be glad to, and let me see if
14 I can focus it a little bit.

15 In 1987, did you have any understanding
16 that Jim Guy Tucker's relationship with Madison would
17 create a conflict with respect to the Mitchell,
18 Williams firm representing Madison?

19 A I don't -- I don't know. I mean, I -- I am
20 having trouble right now figuring out what the
21 conflict would have been. Nothing in my memory from
22 that time period -- there is nothing that jogs my

1 memory as to what the sum and substance -- that
2 assertion, if I made it -- and I don't know whether I
3 did or did not -- but there is nothing in my memory
4 right now that tells me what the particulars of such
5 an assertion would have been.

6 Q Okay. So it is your testimony that in 1987
7 you didn't have any knowledge which would suggest
8 that it would represent a conflict for the Mitchell,
9 Williams firm to represent Madison, and that the
10 basis for that conflict would have something to do
11 with Jim Guy Tucker?

12 A No, that's not my testimony. My testimony
13 is, in 1996, I don't know whether I had that
14 knowledge or not, and I don't know whether or not I
15 made that assertion.

16 Q I am asking you as to what your memory is
17 of the 1987 period.

18 MR. PORTNOY: I believe the testimony is he
19 has no memory of the 1987 period.

20 THE WITNESS: That's correct.

21 BY MR. BARTOLOMUCCI:

22 Q Do you have any understanding now as to why

1 it may have caused a conflict for Jim Guy -- for
2 Mitchell, Williams to represent Madison?

3 A Well, no. I mean, you've got to
4 understand, when I ceased representing the Peacocks
5 somewhere around 1990, I forgot about this. I went
6 on to my current clients and their problems. And I
7 have not had anything that caused me to think about
8 it that would have increased my memory. It has only
9 faded with time.

10 So I don't know now what the conflict would
11 have been. I have no files left over from that time
12 period that would refresh my memory. If perhaps you
13 would have asked me in 1988 or 1989 while I still had
14 file notes, I might have told you, but I can't tell
15 you today what the particularities are. And as you
16 know, that is a very complicated area of the law. It
17 is almost always fact specific.

18 Q All right --

19 A So, I don't know.

20 Q Let me ask you this: Did you ever attend a
21 Madison Guaranty or Madison Financial board meeting?

22 A It is possible. The only thing that -- the

1 only thing I know about that is, when representatives
2 of the Independent Counsel's office, in a routine
3 investigation came to see me about Madison matters,
4 they showed me board minutes that indicated that I
5 had attended a board meeting which I believe was held
6 at the Mitchell firm. And I will tell you the same
7 thing I told them, and that is that I have no reason
8 to doubt those minutes, but I don't remember
9 specifically being there.

10 Q I think I know the minutes you are talking
11 about. There is a document, which unfortunately
12 doesn't have an identification number, but it appears
13 to be the minutes of a board meeting held on July 15,
14 1986, at the Mitchell, Williams firm. And the memo
15 indicates that you were present at the meeting, and
16 it identifies you as attorney for Chuck Peacock. But
17 you have no recollection, apart from this memo, of
18 attending a Madison board meeting on July 15, 1986?

19 A No.

20 Q Did the Independent Counsel folks draw your
21 attention to the paragraph where it discusses
22 potential conflicts related to Jim Guy Tucker?

1 (Answer stricken from the record.)

2 MR. PORTNOY: I am going to object now,
3 because it's been the Committee's practice not to
4 inquire into questions asked of witnesses by the
5 Independent Counsel.

6 MR. BARTOLOMUCCI: That's fine.

7 MR. PORTNOY: Certainly Mr. Bartolomucci
8 has the privilege of inquiring about the contents of
9 the documents.

10 MR. BARTOLOMUCCI: No, Jim, that's fine.

11 MR. PORTNOY: On the record, I would like
12 to ask that we agree now to strike from the record
13 the witness's response to the question regarding what
14 he told the Independent Counsel.

15 MR. BARTOLOMUCCI: Let's go off the
16 record.

17 (Discussion off the record.)

18 MR. BARTOLOMUCCI: We are back on the
19 record. We have had a discussion about the propriety
20 of Mr. Hopkins discussing the substance of what he
21 said with the Independent Counsel, and we've all
22 agreed that we are going to strike his answer that

1 reflects anything substantively that he might have
2 said to the Independent Counsel.

3 MR. PORTNOY: That's agreed.

4 BY MR. BARTOLOMUCCI:

5 Q Mr. Hopkins, again, with respect to the
6 minutes of this July 15th, 1986 meeting, the document
7 before me says "Mr. Selig presented a letter to the
8 board disclosing all transactions between the
9 Mitchell law firm and the association." That is
10 Madison Guaranty.

11 It goes on, "he indicated that because Jim
12 Guy Tucker, a friend of McDougal's, was a partner in
13 the firm, the Mitchell law firm could not represent
14 the association in matters involving the McDougals
15 and Mr. Tucker."

16 Does that refresh your memory at all about
17 what you might have known with respect to conflicts,
18 any conflict existing --

19 A No. I will only assume that I still had
20 knowledge of that information in 1987. And that if I
21 made the statements to Ms. Heritage, that may have
22 been the basis; it may not have. So no, it doesn't

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1 refresh my memory.

2 Q Okay. You don't have any specific memory,
3 though, of attending a board meeting along with Chuck
4 Peacock at the Mitchell firm?

5 A No.

6 Q Do you have any reason to doubt that you
7 did so?

8 A No. I did an awful lot of legal work for
9 the Peacock family from 1982 or '3 to 1988 or '89.
10 If they had wanted legal counsel at the meeting, I
11 would have gone.

12 Q Do you know why they would have wanted
13 legal counsel at a meeting like this?

14 A Not particularly. I see -- no.

15 Q Can you even hazard a guess?

16 A I will hazard a guess that -- and it may be
17 absolutely incorrect, but this was at the time that
18 the savings and loan industry was starting to have
19 problems, and all the directors of savings and loans
20 were starting to refer to legal counsel.

21 Q Well, I will note just for the purpose of
22 the record that you are the only attorney identified

1 as being present at the meeting, representing a
2 specific director, but I know we are just in the area
3 of speculation at this point.

4 A Maybe we were more prudent.

5 MR. FOX: Excuse me, I'm trying to take
6 notes, Chris. Is this a period of time where one or
7 more of the Peacocks were also minority
8 shareholders? As long as we are making notes for the
9 record, I am not sure of the time frame. I am just
10 throwing that out as long as the attorneys are just
11 making notes.

12 MR. BARTOLOMUCCI: All I can tell you is
13 the date of the meeting was apparently July 15, 1986.

14 MR. FOX: Okay. I guess the public records
15 will reflect who were shareholders at that time.
16 Thank you.

17 MR. BARTOLOMUCCI: Sure.

18 BY MR. BARTOLOMUCCI:

19 Q Now, Mr. Hopkins, did you tell me a minute
20 ago that if you had been at this meeting, and
21 apparently at this meeting there was a discussion
22 about Tucker-related conflicts, that you probably

1 would have remembered that in 1987?

2 A Probably. My memory tends to be fairly
3 good when it is substantially contemporaneous, you
4 know, within a few years, and it involves matters
5 being within my purview of representation. Once
6 those matters conclude and I discard all my files, I
7 tend to forget about them so I can focus on current
8 engagements.

9 So if I was at the meeting and heard
10 discussions, I would have almost assuredly retained
11 that knowledge into 1987. And would have probably
12 had file notes of the specifics if I was at that
13 meeting.

14 Q Okay. Now, if you talked to Pat Heritage
15 in April of 1987 and indicated that there might be a
16 conflict with respect to Mitchell, Williams
17 representing Madison, do you think that this matter
18 discussed at the board meeting could have been the
19 basis of that statement?

20 A Maybe yes; maybe no, since I don't remember
21 having the conversation, number one; since number
22 two, if the conversation occurred, I don't remember

1 what the substance of it was; and number 3, since I
2 don't remember whether I made the assertion that
3 there was a conflict, or the basis thereof, I can't
4 answer that other than to say maybe yes or maybe no.
5 It is definitely a plausible explanation.

6 Q Okay. Now, in April of 1987, we've got
7 these lawsuits ongoing; you are representing the
8 Peacocks; Mitchell, Williams is representing
9 Madison. You would have known, wouldn't you, that
10 Pat Heritage was being represented by counsel?

11 MR. PORTNOY: Pat Heritage was being
12 represented by counsel?

13 BY MR. BARTOLOMUCCI:

14 Q Pat Heritage as an employee of Madison had
15 counsel.

16 A In that -- that presumes a couple of
17 things; one, that I actually was representing the
18 Peacocks at that point in time, which I have said was
19 probably likely but has not been established; and
20 number two, if I did have this conversation with Pat
21 Heritage, I had with her as a representative of
22 Madison and that hasn't been established to my

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1 memory. So I don't know.

2 Q Now, to the extent that the records reflect
3 that Madison filed its lawsuits against the Peacocks
4 on April 1st, 1987, do you have any doubt that by
5 April 21 you were representing the Peacocks?

6 A On what date did I file my responsive
7 pleadings for the Peacocks?

8 Q Well, just try to answer my question. Do
9 you have a doubt by April 21, 1987 --

10 A Yes, sir.

11 Q -- you were representing the Peacocks?

12 A On that specific matter, yes, sir, I do
13 have a doubt. I am not disputing it. I am just
14 saying I don't know specifically that I had been
15 engaged for that matter. Probably true, but I am not
16 going to say yes, I am sure of that.

17 Q Let's see if we can pin this down. I have
18 a document which is identified only as M-1. It is a
19 deposition taken of Charles Peacock, III, in the case
20 of Madison Guaranty versus Dixie Continental
21 Leasing.

22 You remember that lawsuit; right, we talked

1 about it earlier?
2 A Is that the one in Saline County?
3 Q Yes. You remember that lawsuit; right?
4 A Generally.
5 Q Your law firm handled it on behalf of
6 Mr. Peacock?
7 A That -- yes, that's my memory.
8 Q All right, and do you remember whether
9 Ms. Queen was involved in that case?
10 A That's my memory.
11 Q Well, I will tell you that this document
12 indicates that Charles Peacock was deposed on April
13 15th, 1987. You don't think the court reporter in
14 that case was wrong, do you?
15 A I don't have any idea. When was that
16 lawsuit filed?
17 Q Well, as I've told you, I believe it was
18 filed on March 12, 1987.
19 A I thought you told me all these were filed
20 on April 1.
21 Q Most of them, with --
22 A Since you are talking in sweeping

1 generalities, I don't remember. I am not going to
2 guess.
3 Q Let me represent to you Peacock was deposed
4 on April 25, 1987 in connection with Madison Guaranty
5 versus Dixie Continental Leasing, that Marcella J.
6 Taylor of the Mitchell, Williams firm represented the
7 plaintiff or Madison, and that Karen L. Queen
8 represented at the deposition the defendant, who is
9 Dixie Continental Leasing -- Karen Queen was an
10 employee of your firm at that time; right?
11 A Correct. Did you note that I was at the
12 deposition?
13 Q It doesn't indicate that you were at the
14 deposition.
15 Now, Ms. Queen wouldn't have been
16 litigating this case without your knowledge, would
17 she?
18 A She -- I mean, she had the authority to
19 deal with legal matters.
20 Q She was an associate in your firm, right?
21 A Sure, she was.
22 Q All right. Could she have accepted a

1 representation without informing you?

2 A Define what you mean by "representation."

3 If I am taking in a new client to deal with a matter

4 for an existing client, it is possible she had that

5 authority.

6 Q Let me ask you this. How big was your law
7 firm in April of 1987? How many attorneys worked at
8 your law firm?

9 A Two or three.

10 Q Two or three; that would have been you,
11 Karen Queen, and who else?

12 A I don't remember.

13 Q This document indicates that Ms. Queen was
14 affiliated with a firm called Hopkins and Irwin?

15 A Okay.

16 Q Was there a person named Irwin at your
17 firm?

18 A Yes.

19 Q Would there have been anyone else?

20 A There may have been one other lawyer at
21 that point in time. Our firm has always been
22 somewhere between two and five lawyers. It has

1 changed composition over the years, and who has been
2 here at specific times, I don't remember.

3 Q Okay --

4 A And records would indicate that Ms. Queen
5 worked for me from 1985, if memory serves correct,
6 until 1989.

7 Q Okay, just to review at this point. Now,
8 it is my understanding -- and I am not asking you to
9 ratify this -- that the Dixie Continental suit was
10 filed on March 12, 1987. This document indicates
11 that Charles Peacock was deposed in connection with
12 that lawsuit on April 15th, 1987.

13 So is there any doubt in your mind that you
14 would have known about this lawsuit at least as of
15 April 15th, 1987?

16 A Me personally?

17 Q You personally.

18 A I would have probably known about it. For
19 me to tell you yes, I remember knowing about it, I
20 can't tell you that.

21 Q Okay. Now, if you had known about it, do
22 you think it would have been proper to contact

1 Ms. Heritage, an employee of Madison, and discuss
2 matters relating to the lawsuit?

3 A Possibly.

4 Q Are you aware of the rule prohibiting
5 ex parte contacts with represented parties?

6 A Yes, I am aware of those rules. But that's
7 not exactly -- that's not exactly the way I interpret
8 the rule and there are a lot of circumstances that
9 could change that.

10 Q Well, you would have understood, right,
11 that Mitchell, Williams was representing Madison
12 Guaranty in this case?

13 A Probably.

14 Q And you would have understood that
15 communications with respect to the lawsuit should be
16 made to the law firm representing Madison Guaranty?

17 A That I don't know, because I don't know
18 what the particulars were of the situation at that
19 time. I have been involved in litigation before
20 where the opposing counsel, for some reason, says it
21 is okay to deal with X person, so I don't know.

22 You are asking me to tell you something

1 very specific in nature that happened almost nine
2 years ago and I don't have any memory.

3 Q Do you have any memory of anyone at the
4 Mitchell, Williams firm telling you that it was okay
5 to contact employees of Madison Guaranty?

6 MR. FOX: Chris, at this point in time --
7 this is Tim -- I would like to make an objection.
8 What we have here are some notes, and we have that
9 one page of notes and this one three-page memo, and
10 we don't have any of those other documents and we
11 don't have that deposition. Now why we didn't get
12 that? I guess that's you-all's decision, but my
13 objection at this point in time is I don't see in
14 these notes and I don't see in this memo where it
15 says that Mr. Hopkins contacted Ms. Heritage. I see
16 in the notes and in the memo, that "she informed me,"
17 who is LM, that she had spoken with Mr. Greg
18 Hopkins.

19 Now, for purposes of your questioning, are
20 we going under the assumption, from other information
21 that you have, that Ms. Heritage says that
22 Mr. Hopkins contacted her, or is it some situation

1 where she may have contacted him or seen him out and
2 about? I notice that the note, the fundraiser 17
3 says that Mr. LM's conversation was at 2105 which
4 down here would be 9:05 p.m. So I am trying to
5 clarify before we get into all this stuff, is it a
6 violation of ethics or something? What is the
7 assumption Mr. Hopkins is supposed to be proceeding
8 about, with respect to who contacted whom, was it in
9 response to some communication from somebody? Could
10 you help me out in that? This is beyond anything we
11 got here.

12 MR. BARTOLOMUCCI: Let me just pose the
13 question this way.

14 MR. FOX: Okay.

15 BY MR. BARTOLOMUCCI:

16 Q If you had known that -- if in April of
17 1987 you had known that Madison Guaranty was involved
18 in litigation against Dixie Continental Leasing, that
19 your law firm was representing Dixie Continental
20 Leasing, that the Mitchell, Williams firm was
21 representing Madison Guaranty, and that Pat Heritage
22 was an employee of Madison Guaranty, do you think it

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1 would have been proper for you to contact
2 Ms. Heritage to talk to her about matters related to
3 the lawsuit?

4 A Oh, I can only assume that I would have
5 acted in accordance with whatever the applicable
6 rules were in effect at that point in time.

7 Q Just for the record, let me read what I
8 think is an applicable rule. This is Rule 4.2 of the
9 Arkansas rules of professional conduct. And they
10 state that "in representing a client a lawyer shall
11 not communicate about the subject of the
12 representation with a party the lawyer knows to be
13 represented by another lawyer in the matter."

14 Now, I mean, you are generally aware of the
15 rule against ex parte contacts, aren't you?

16 A I am not -- well, one of the things, I
17 think you mischaracterized it as ex parte contact,
18 but I am generally aware of the rule you quote. You
19 need to be aware the Arkansas rules changed at some
20 point in time in there. We are talking about
21 academic discussion. If I had the conversation, I
22 had it; if I didn't, I didn't.

1 I have always been sensitive to ethical
2 issues. I continue to be sensitive to them. And
3 believe that if there was a conversation, it was
4 consistent with the applicable ethical guidelines,
5 and I have no reason to think that it was not.

6 Q Let me turn your attention to another part
7 of the memorandum, and this is on the second page of
8 the document which is actually numbered page 3, but
9 we have been advised by Lance Miller that there are
10 only three pages to the document.

11 So on the second page of the document, it
12 says "Mr. Hopkins informed Ms. Heritage that one of
13 the loans made by Madison to Dixie Continental
14 Leasing upon which Marcy Taylor has undertaken
15 foreclosure proceedings also involves fraudulent
16 transactions. Mr. Hopkins stated that a portion of
17 the loan proceeds made to Dixie Continental Leasing
18 went to Bill Clinton's campaign, and in return for
19 the substantial campaign contribution, Bill Clinton
20 assured Jim McDougal that a state agency would lease
21 space from Madison at its headquarters on Main Street
22 in Little Rock."

1 Now, while you peruse that, we are going to
2 pause for a second to let the court reporter change
3 her tape.

4 MR. FOX: As long as we are going to do
5 that, I need to step into the hall for a second.

6 MR. BARTOLOMUCCI: Do you want to take a
7 five-minute break?

8 MR. FOX: Let's just do that.

9 MR. BARTOLOMUCCI: Okay.
10 (Recess.)

11 MR. BARTOLOMUCCI: We are back on the
12 record.

13 BY MR. BARTOLOMUCCI:

14 Q So, Mr. Hopkins, directing your attention
15 to that portion of the memo that I have just read, do
16 you have any memory of telling Ms. Heritage that loan
17 proceeds from -- made to Dixie Continental Leasing
18 went to Bill Clinton's campaign?

19 A No.

20 Q Do you have any memory of telling
21 Ms. Hopkins that Bill Clinton assured Mr. McDougal
22 that a state agency would lease building space from

1 Madison?

2 A I'm sorry. I think you mean Ms. Hopkins.

3 You said do I recall telling Ms. Hopkins.

4 Q Ms. Heritage?

5 A Let me restate it, please, ma'am.

6 I assumed you meant Ms. Heritage, not
7 Ms. Hopkins, and I understand your question, and my
8 response thereto, I have no recollection of telling
9 her that.

10 Q Now, it is true, isn't it, that Madison had
11 undertaken a foreclosure action against Dixie
12 Continental Leasing? That's the Madison Guaranty
13 versus Dixie Continental lawsuit; right?

14 A Some of the lawsuits were foreclosure
15 actions, some of them were just straight debt
16 actions. So I guess maybe I am getting hung up on
17 the legal technicalities on the terminology. There
18 was litigation ongoing that was collection in nature.

19 Q Madison did sue Dixie Continental Leasing
20 to recover on a loan?

21 A That's my recollection.

22 Q And you will agree with me that Marcy

1 Taylor represented Madison Guaranty in that action?

2 A The Mitchell firm represented in that
3 action. I am not sure whether Marcy was exclusively
4 and specifically the Mitchell firm attorney, but my
5 memory is she was one of the attorneys involved.

6 Q Were you aware on April 4, 1985 Madison
7 Guaranty hosted a fundraiser to retire Bill Clinton's
8 debt from the 1984 political campaign?

9 A No. I mean, I didn't attend it. I've read
10 and heard about it since then.

11 Q In 1987 you didn't know about it?

12 A I don't know whether I did or did not in
13 1987.

14 Q So you might have known about it?

15 A I assume I -- yes, I might have known about
16 it. Probably did know about it.

17 Q Did you know that Charles Peacock donated
18 \$6000 to the Clinton campaign at that fundraiser?

19 A No. I am not sure I knew that until just
20 now.

21 MR. PORTNOY: I am also not sure that the
22 record is absolutely clear with respect to that fact,

1 but I think --

2 MR. BARTOLOMUCCI: I think the record is
3 clear, actually, but let me put the question this
4 way.

5 BY MR. BARTOLOMUCCI:

6 Q In 1987, did you have any knowledge as to
7 whether Charles Peacock contributed money to Bill
8 Clinton?

9 A I don't recall. I don't remember.

10 Q In 1987, did you know that Madison Guaranty
11 won a contract to lease space out of its headquarters
12 to a state agency called ADFA?

13 A Well -- I don't recall that. I was just
14 trying to think if I know that now.

15 Q So you don't know whether you knew that in
16 1987 at all?

17 A I don't know if I did or did not know at
18 that point in time.

19 Q Did you know that the fundraiser -- let me
20 start that again.

21 Did you know in 1987 that the fundraiser
22 held at Madison Guaranty was held on the very same

1 day that the Dixie Continental loan was executed?

2 A I don't know. Once again, for the record,
3 I probably had file notes or documentation or any
4 number of things in my records that would tell me
5 what I knew in 1987, but since those have been
6 discarded in a routine manner, I don't have them
7 anymore, so I don't know what I knew then.

8 Q When did you discard those notes and
9 records?

10 A That I don't recall either. It's been
11 sometime in the last two or three years as part of an
12 annual document review, for all clients, of files.

13 Q Was it in 1995?

14 A No.

15 Q Was it during the 1990s?

16 A Most likely. We started an annual policy
17 of review sometime around that time period. Ran out
18 of storage space.

19 Q Can you be more specific with respect to
20 the date this policy commenced?

21 A No. I just know that some time over the
22 past four, five, six years, we have run out of

1 storage space. So on a periodic basis, typically,
2 about annually, I'll spend a day or two going through
3 all of my records, and the ones that are stale are
4 then dealt with. They are either returned to the
5 client or destroyed through use of a commercial
6 bonded destruction firm.

7 Q Now, did Charles Peacock ever tell you that
8 he took some loan money that he obtained and gave it
9 to Bill Clinton?

10 A That is attorney-client privilege what he
11 told me. Now, I don't have any specific recollection
12 of the conversations, but that's attorney-client
13 privilege, and I can't if he told me.

14 Q He didn't tell you that there would be no
15 communication covered by the privilege; right?

16 A Whether there was a communication or not,
17 my interpretation, it is a privilege.

18 Q Well, I'll let it go for now, but though I
19 will tell you that the Committee has not honored the
20 attorney-client privilege in all instances.

21 MR. FOX: It is my understanding you will
22 have access to him at some time during the hearings

1 to take it up with him.

2 THE WITNESS: Ethically I can't do that.

3 BY MR. BARTOLOMUCCI:

4 Q You are telling me you are not going to
5 tell me anything that Mr. Peacock may have said to
6 you?

7 A Anything that would have been inside the
8 attorney-client privilege, I will not discuss without
9 a waiver from Mr. Peacock, or without a court order.
10 I'll comply with what the ethical rules say on that.

11 Q Now, if Mr. Peacock had told you that he
12 took some of the Dixie Continental loan proceeds and
13 gave them to the Bill Clinton campaign, is it your
14 understanding that would fall within the ambit of the
15 attorney-client privilege?

16 MR. FOX: Let me say that -- this is Tim,
17 Chris -- the answer to that is yes, it would. And on
18 advice of counsel, Mr. Hopkins is not going to
19 discuss any conversations he may or may not have had
20 with a client, absent the parameters that he
21 described to you.

22 And if the Committee doesn't want to honor

1 the attorney-client privilege or genuinely believes
2 that a particular question is outside of the
3 attorney-client privilege, I guess we are not going
4 to have any choice but to take it up with them at
5 that point in time.

6 MR. BARTOLOMUCCI: I was just asking
7 whether a communication along the lines of the one I
8 have described, whether Mr. Hopkins would consider
9 that to be a privileged communication.

10 THE WITNESS: Yes, it depends on the
11 context it is told and I know of no conversations
12 regarding any subjects, particularly on the subject
13 that we are talking about here, where there were
14 conversations between Mr. Peacock and myself that I
15 would not consider to be privileged.

16 BY MR. BARTOLOMUCCI:

17 Q Has Mr. Peacock ever waived the
18 attorney-client privilege with respect to -- let me
19 finish the question -- has Mr. Peacock ever waived
20 the attorney-client privilege with respect to any
21 aspect of your representation of him?

22 A Not to my recollection.

1 Q When was the last time you talked to
2 Mr. Peacock?

3 A I think I had a brief conversation with him
4 back last July.

5 Q That would be July of 1995?

6 A Yes, sir.

7 Q And would that have been because of the
8 press attention that was generated that month?

9 A Yes.

10 Q And that was press attention about this
11 very memo that we have been discussing; right?

12 A Yes.

13 Q Were you still representing Mr. Peacock at
14 that time?

15 A No.

16 Q What was the substance of your conversation
17 with Mr. Peacock in 1995?

18 A He told me that FBI agents are -- or
19 Independent Counsel agents had been to see him as a
20 result of the memo and he called to tell me that.
21 And I don't know whether they had asked him to call
22 or whatever, but he called to tell me that they were

1 coming to visit with me about the matter. That was
2 the sum and substance of it.

3 Q Did he say anything else?

4 A No.

5 Q Did you have any conversation with respect
6 to the truth or falsity of the allegations in the
7 memo?

8 A Probably 15 minutes -- I'm sorry, 15-second
9 statement that I have never seen the memo and I don't
10 remember anything about that, and just -- I can't
11 help them on it. Tell them to feel free to come and
12 talk to me, but I can't help them because I have no
13 memory of what was going on at that point in time.

14 Q Are you telling me Mr. Peacock was talking
15 to you to figure out what was in the memo?

16 A No, oh, no. It was sort of an offhand
17 comment when he said, well, the feds or whatever he
18 referred to them, have been here to talk about this
19 memo. I don't know what was talked about. They said
20 they were going to come and see you.

21 I thought you should know that or they
22 wanted me to let you know that, or whatever. And I

1 said well, I saw the article in the paper, I have
2 never seen the memo, Charles, and I don't remember
3 anything about that, and I will be glad to tell them
4 that.

5 Q At that time in July of 1995 when you were
6 talking to Mr. Peacock, did you have any discussion
7 with him about this allegation that loan proceeds
8 were diverted to the Clinton campaign?

9 A No.

10 Q Did you have any discussions about the
11 allegation that Bill Clinton assured McDougal that a
12 state agency would lease space from Madison?

13 A No.

14 Q When were you contacted by the FBI?

15 A I never have been contacted by the FBI.

16 Q But you have been contacted by the
17 Independent Counsel?

18 A Sure. This was -- the Independent
19 Counsel's office came and spent a couple of hours
20 with me, talking about certain things that I won't go
21 into because of my concern over your rules.

22 Q Sure.

1 A It was probably a two-hour session. It was
2 several months before the news article on this memo.
3 I will tell you there was no discussion of the memo.

4 Q So it was prior to July 1995?

5 A I think it was maybe somewhere around a
6 year ago, you know, February, March, April, of 1995.
7 We were in the building we are in now, and we have
8 been here since October of '94, so it is sometime
9 between October of 1994 and July 1995.

10 Q Now, would you agree with me that this
11 allegation that loan proceeds to Dixie Continental
12 Leasing was diverted to the Clinton campaign, and
13 that in return, McDougal was going to be given lease
14 contracts, would you agree with me that that's a very
15 serious allegation?

16 A Serious in what regard?

17 Q Serious in its tendency to show
18 impropriety.

19 A That's a loaded question. Yes, it is a
20 serious allegation.

21 Q That's not the sort of allegation that --
22 and I am not saying you did make it, but if you were

1 to say something like that, I mean, you wouldn't say
2 it unless you had a basis for doing so, would you?

3 A No. I mean, that's doesn't sound like the
4 type of statement I would make, and it is sure not
5 the kind of statement I would dream up out of thin
6 air and make.

7 Q Now, I know you don't have any present
8 memory of making a statement like that, but on the
9 hypothetical assumption that you did, can you think
10 of any reason why you would have?

11 A No. And --

12 MR. PORTNOY: I object to this. The
13 witness has testified he didn't make the statement.

14 MR. BARTOLOMUCCI: Let him answer the
15 question.

16 MR. PORTNOY: No, I will object before he
17 answers the question. He's testified he doesn't have
18 any recollection of making the statement and I think
19 it is beyond the pale of speculation why he would
20 have made the statement.

21 MR. BARTOLOMUCCI: He hasn't testified he
22 didn't make it, only that he has no memory of it. 1

1 think it is perfectly fair, why he might have said
2 something like that. That is the kind of question
3 that gets asked in these depositions all the time and
4 I would like to have his answer to it.

5 MR. PORTNOY: I will state my objection to
6 why he made a statement that he has no recollection
7 of making.

8 MR. BARTOLOMUCCI: The objection is noted.

9 If you want me to repeat it, I will be
10 happy to.

11 THE WITNESS: I don't know why I would have
12 made it if I did make it. If I didn't make it, if I
13 said something that was similar that was
14 misinterpreted, I don't know what happened in April
15 1987, and I suspect that no one else truly does.

16 BY MR. BARTOLOMUCCI:

17 Q Is it possible that you called Ms. Heritage
18 to try to get these lawsuits settled on favorable
19 terms?

20 A Possible.

21 Q Is it possible that you called her, and you
22 said some of the things reflected in this memo, in an

1 attempt to frighten her a little bit?

2 A I guess I take issue with the term
3 "frightened."

4 Q Let me rephrase the question. Is it
5 possible that you called Ms. Heritage -- strike
6 that.

7 Is it possible you said some of the things
8 reflected in this memo to Ms. Heritage in an attempt
9 to discourage Madison from proceeding with its
10 lawsuits?

11 A If I am going to speculate, and that's what
12 I am asked to do, most likely any conversation I
13 would have had with anyone on this deal would have --
14 especially given the timetable you have outlined for
15 me, litigation breaking out only 30, 45 days earlier,
16 would have been, there are certain matters that we'll
17 be looking into, and you need to evaluate from your
18 client's perspective or your side's perspective
19 whether these are matters that are important to you,
20 but if we get into discovery we will be looking into
21 these issues.

22 It is not my style to make those kind of

1 bold-faced threats. And what's said in a memo, I --
2 I do believe it was probably misinterpreted. You
3 know, it was done -- if this did occur, we were
4 talking about resolution of litigation, issues that
5 would have to be fleshed out at some point in time,
6 if the litigation pursued. I have no memory any of
7 these issues ever fleshed out in the litigation, and
8 I have no memory that this particular conversation
9 occurred. And you now have probably my best
10 interpretation of what may or may not have happened.

11 Q And that best interpretation is that, if
12 you said anything along the lines reflected in this
13 memo, it was probably in an effort to advance your
14 client's position in litigation?

15 A Absolutely. My role and goal is represent
16 my client in his best interest within the bounds of
17 the law.

18 Q And if you had talked to Ms. Heritage in an
19 attempt to advance the litigation, you wouldn't have
20 knowingly said anything false to her, would you?

21 A No.

22 Q And in fact, you would understand, wouldn't

1 you, that ethical rules would have forbidden you from
2 making a material and knowing false statement to her
3 in connection with litigation?

4 A Well, that's why I don't think I -- that's
5 why I particularly don't make statements at all, it's
6 more we will be looking into this.

7 Q The document labeled fundraiser 17 --

8 A Those are the handwritten notes?

9 Q The handwritten notes say, "Dixie loan went
10 to Clinton campaign. Signed lease to state, a lot of
11 people going to prison."

12 And, then in the typed memo, the fundraiser
13 18 document, it seems to expand upon that thought
14 where it says "Mr. Hopkins went on to explain that
15 there were substantial wrongdoings regarding the
16 prior administration of Madison, and that several
17 people were going to go to prison."

18 Now, do you have any memory of telling
19 Ms. Heritage at any time that people were going to
20 prison?

21 A No.

22 Q Do you think that's the sort of thing that,

1 had you said it, you would be likely to remember?

2 A Not -- I don't know whether it is or is
3 not.

4 Q All right. There's a place in both of
5 these documents where it seems to indicate that you
6 thought the matter regarding the Peacocks and Madison
7 was getting too dirty, and that you considered
8 resigning your representation of the Peacocks.

9 Does that -- does that refresh your memory
10 at all about whether you talked to Ms. Heritage?

11 A No.

12 Q How about the paragraph in the typewritten
13 memo where it says that "all Mitchell, Williams is
14 doing is churning the files in an effort to enhance
15 the amount of billings."

16 Does that refresh your memory at all about
17 whether you talked to Ms. Heritage?

18 A No.

19 Q What do you understand the phrase "churning
20 the files" to mean?

21 MR. PORTNOY: I would like the record to
22 reflect you are asking the witness to interpret a

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1 document he didn't write and hasn't heretofore read.

2 BY MR. BARTOLOMUCCI:

3 Q No, that's not correct.

4 What I am asking is, what do you think the
5 phrase in general "churning the files" means.

6 MR. PORTNOY: If you believe there is such
7 a thing as a general meaning.

8 THE WITNESS: It relates to billing; it
9 relates to doing a multitude of activities in
10 connection with litigation, maybe being zealous,
11 performing numerous activities that, while proper in
12 nature, may not be appropriate given the level of the
13 matter.

14 BY MR. BARTOLOMUCCI:

15 Q So in other words, not economizing on
16 billing but doing everything possible to add to the
17 bill?

18 A Correct. Not everything possible but --
19 but spending more time than would -- than could be
20 spent.

21 Q Now, I want to direct your attention to the
22 part of the memo where it says "Mr. Hopkins first

1 stated that I should not have said what I did in
2 front of the bankruptcy court at the hearing held on
3 Wednesday, April 8th, 1987."

4 Do you see that part of the memo?

5 MR. FOX: Where is that again?

6 MR. BARTOLOMUCCI: It is on the second page
7 near the bottom.

8 THE WITNESS: Oh, I see it. No. When I
9 read it this morning, I don't -- I don't recall.
10 First of all, I don't recall the hearings. I now tie
11 the date of April 7, 1987 to the date you gave me
12 earlier to dismissal of bankruptcy. I don't know
13 what that refers to.

14 BY MR. BARTOLOMUCCI:

15 Q Right. Now, would it have been normal for
16 there to be a hearing prior to the dismissal of the
17 bankruptcy matter?

18 A Probably so. Especially if it was a
19 contested dismissal.

20 Q Would the dismissal in that particular
21 bankruptcy matter have been contested?

22 A I don't know. Sometimes in similar cases,

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1 yes, they are contested; and sometimes, if
2 reorganization is not going to happen, they are not
3 contested. And I don't remember enough about the
4 Peacock Brothers, Inc. situation to express an
5 opinion.

6 Q So you have no memory of attending a
7 hearing on or about April 8th, 1987 in front of the
8 bankruptcy court?

9 A No.

10 Q You don't have any memory of something
11 Lance Miller might have said to you?

12 A At this point, no. And at this point in
13 time, I couldn't tell you who the bankruptcy judge
14 was who handled that case.

15 Q Do you have any memory of telling the
16 bankruptcy court that you thought this matter was
17 settled, and then Lance Miller saying that no, it
18 wasn't?

19 A Is this in this memo?

20 Q No.

21 MR. FOX: I was just getting confused
22 there. Go ahead.

1 THE WITNESS: No.

2 BY MR. BARTOLOMUCCI:

3 Q Do you have any memory with respect to that
4 bankruptcy matter? Do you have any memory to the
5 effect that you had a disagreement with Mr. Miller
6 about whether it had been settled?

7 A No.

8 Q Do you have any memory of Mr. Miller
9 alleging that a loan to Peacock had been used to pay
10 your attorney's fees?

11 A No.

12 Q I am going to direct your attention again
13 to the handwritten note, the fundraiser 17 document,
14 where the last entry says, "McDougal told Peacock
15 that JGT" -- who I take to be Jim Guy Tucker -- "and
16 McDougal would like to take" -- "would take care of
17 Peacock." Do you see that reference?

18 A Yes, I do.

19 Q Do you remember telling Ms. Heritage that
20 Jim Guy Tucker and McDougal were going to take care
21 of Peacock?

22 A No.

1 Q Do you have any understanding that -- of
2 some relation or arrangement Peacock had with
3 McDougal and Tucker, insofar as they would be taking
4 care of him?

5 A No, no.

6 Q Now, I know you told me that there was some
7 activity with respect to reporters asking questions
8 around July of 1995 --

9 A Correct.

10 Q -- about this matter?

11 A Correct.

12 Q Prior to that time, prior to July of 1995,
13 had -- and excluding the Independent Counsel, had
14 anyone contacted you about the matters alleged in the
15 Lance Miller memo?

16 A No. As far as my memory serves, there was
17 no major discussion of anything involving the
18 Peacocks and Madison, as far as I can recall, from
19 the time my representation terminated, five or six
20 years ago, and the contact from the Independent
21 Counsel's office.

22 From the time I had contact with the

1 Independent Counsel's office until this reporter and
2 his local counterpart worried the hell out of me --
3 pardon my language -- there was no contact regarding
4 this matter, and there was no contact other than
5 about the matter, until you called me in January.

6 Q Setting aside the Independent Counsel and
7 reporters and any contact you may have had with me or
8 anyone else here at the Senate, have you been
9 contacted or communicated with anyone else about
10 these matters? And of course, also excluding your
11 attorney.

12 A Sure. The only -- once again, the only
13 contact I have had regarding the matter, there was
14 attempted contact made by a couple of very
15 irritating -- I'm sorry, my counsel asked me to
16 refrain -- there was contact from a couple of
17 reporters that predated by a few days the newspaper
18 article.

19 There was the call sometime, a week or two
20 or three, after the article ran, from Mr. Peacock.

21 I had the one very limited session with
22 representatives of the Independent Counsel's office,

1 and then you and I had our 30-, 45-minute
2 conversation, back in mid to late January. That's
3 the sole contact I have had with anyone in the
4 matter, to the best I recall.

5 Q Now, I will tell you -- and you may have
6 already read this in the press -- there was a meeting
7 held on November 5th, 1993, involving some Clinton
8 administration officials, and some persons who are
9 lawyers to the Clintons. And we know from notes
10 taken at that meeting that the issue of Charles
11 Peacock's contributions to the Clinton campaign was
12 discussed.

13 Now, I just want to go in on this list of
14 people who attended the meeting and see if you've had
15 any contact with them recently.

16 A Sure.

17 Q Have you ever spoken to David Kendall?

18 A David Kendall?

19 Q David Kendall.

20 A No.

21 Q Stephen Engstrom?

22 A Not on this matter. I know Steve because

1 he is a lawyer, but not on this matter, and I don't
2 think I've even had a case with him for a couple of
3 years.

4 Q So you have never talked to him about
5 matters having to do with Peacock?

6 A No.

7 Q Okay. What about Jim Lyon?

8 A Where is he from -- no, I haven't had any
9 contact with Jim Lyon. I know a Jim Lyon and I am
10 not sure it is the same one, and I definitely have
11 not talked to Jim Lyon in matters involving Peacock,
12 Whitewater, the Senate, the President, or anything.

13 MR. PORTNOY: Off the record.

14 (Discussion off the record.)

15 MR. PORTNOY: Jim Lyon is from Denver.
16 Does that help, sir?

17 THE WITNESS: It is a different one. I
18 know a Jim Lyon from Jonesboro.

19 BY MR. BARTOLOMUCCI:

20 Q And actually, just to be accurate on the
21 record, it's Lyons with an S, James Lyons.

22 Have you ever talked to Bernard Nussbaum?

1 A No.

2 Q Have you ever talked to William Kennedy?

3 A Not about this matter. I know Bill
4 Kennedy, just in passing. Never had a case with him
5 and never talked about anything involving this.

6 Q You know him because he is an attorney at
7 the Rose Law Firm?

8 A Yes.

9 Q Have you talked to Neil Eggleston?

10 A No.

11 Q Have you talked to Bruce Lindsey?

12 A Not about this matter. I know Bruce from
13 the community, but no contact on this matter.

14 Q Did you ever talk to Karen Queen about this
15 matter?

16 A No.

17 Q To your recollection, have you ever talked
18 to Lance Miller about it?

19 A No.

20 Q Have you ever talked to Marcy Taylor about
21 it?

22 A No.

1 Q Have you ever talked to Jim Guy Tucker
2 about it?

3 A No.

4 Q Have you ever talked to John Selig about
5 it?

6 A No.

7 Q Have you ever talked to Jim McDougal about
8 it?

9 A No.

10 Q Do you know Jim McDougal?

11 A Well, sort of. I mean, I've probably been
12 introduced to him a few times over the years.
13 Probably haven't seen him other than on TV or in
14 passing in years.

15 Q Other than that list of persons associated
16 with Bill Clinton that I've listed to you, have you
17 had any other -- any contact with persons you would
18 associate with Bill Clinton about this matter?

19 A No. I have had no contact with anyone
20 associated with the President, the White House, the
21 Democratic party, the Republican party, or anyone,
22 other than the few isolated contacts I outlined for

1 you a few moments ago.

2 Q Now, just to close the loop upon the matter
3 that has been central to this deposition, I've read
4 in the newspaper that Pat Heritage and Lance Miller,
5 it is their belief that the memo prepared by Lance
6 Miller is an accurate account of what you said to Pat
7 Heritage?

8 I mean, I know that you have no specific
9 memory of the conversation, if it occurred. Do you
10 have any reason to doubt her recollection?

11 A I can't speak one way or another. I have
12 told you that perhaps the way that the statements
13 were phrased, I consider inconsistent with the way I
14 would have discussed the matter if discussions did
15 occur.

16 It is possible that she interpreted it that
17 way. I read the same newspaper article where they
18 considered it quote, unquote, posturing.

19 Q Right, I think they have said that. But
20 you are now telling me that it is possible that you
21 said something and that she misinterpreted it?

22 A Yes, that's what I am saying.

1 I don't remember what was said, if anything
2 was said, was not said. I can't specifically comment
3 on that other than to tell you it is somewhat
4 inconsistent with the typical way that I negotiate a
5 case.

6 Q And would that be in part because Madison
7 had representation at that time, and therefore you
8 probably wouldn't have contacted a Madison employee
9 directly, given that you were in litigation?

10 A Possibly.

11 Q I think we've established from the basis of
12 the April 15th date on that Peacock deposition that
13 your firm and the Mitchell, Williams firm were
14 representing opposing parties in litigation, as of
15 April 15th, and you would have known about that;
16 right?

17 A Very likely.

18 Q And had you known about it, you would have
19 hesitated to call an employee of a party that you
20 knew to be represented by counsel?

21 A Probably so. Because I don't remember
22 specifically what was going on, if the conversation

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1 occurred, how it occurred, why it occurred. I can't
2 comment on -- I can't comment on that.

3 Since I don't know whether the litigation
4 that was ongoing involved a very small part of a
5 dispute between Madison and Peacock, or it involved
6 everything, it is hard to answer in the abstract.

7 Q But you do know now and you did know in
8 1987 that, as a general rule, it is unethical to
9 contact and talk to a party that is represented by
10 counsel?

11 A A general rule.

12 Q As a general rule.

13 A As a general rule I think that is
14 discouraged. Your use of the term "unethical" is a
15 legal determination to be made based on the facts of
16 each situation and I don't know that there is a
17 general rule but it is discouraged.

18 Q Let me rephrase that.

19 There is now and would have been in 1987 an
20 ethical rule that laid down, as a general matter,
21 that a lawyer shall not knowingly talk to a party
22 that is represented by counsel.

1 A Whatever the rule was at that point in
2 time, I will agree that it said whatever it did in
3 1987.

4 Q Well, I am asking you about your
5 understanding of it. You would have known in 1987
6 about the rule, the general rule prohibiting contact
7 with parties represented by counsel?

8 A I would have been familiar in 1987 with the
9 Arkansas ethical rules.

10 I did tell you and I will tell you again
11 that those rules have changed. Whether that specific
12 rule changed or not, I don't know. We went from one
13 version put out by the ABA to another. I am
14 generally aware of the concept to which you refer.

15 Q Can we also agree that if you called
16 Ms. Heritage, and said to her that loans made to --
17 that proceeds of loans made to your client, Charles
18 Peacock, had gone to the Clinton campaign, that
19 that's the sort of allegation that you would have not
20 have made if it lacked a basis in fact?

21 MR. PORTNOY: If it lacked a basis in fact
22 or if he had reason to believe that somebody else was

1 making the allegation?

2 MR. BARTOLOMUCCI: Let me rephrase the
3 question.

4 BY MR. BARTOLOMUCCI:

5 Q You wouldn't have -- you wouldn't have told
6 someone that a loan -- that proceeds of a loan made
7 to your client had been diverted to the Clinton
8 campaign if you knew the allegation to be spurious?

9 A Please repeat that. I am not sure I
10 understood your last word. Did you say serious?

11 Q I said spurious. I will rephrase the
12 question.

13 You wouldn't have made up an allegation
14 that proceeds of loans to your client were diverted
15 to the Clinton campaign, would you?

16 A It is not the kind of thing I would have
17 made up out of my own head. There would have been
18 something that would have prompted that comment. And
19 once again, if the comment was made, it was most
20 likely in the context of, we will be doing discovery
21 to look into, to see if this has in fact occurred.
22 That is the kind of allegation that I doubt seriously

1 I would have made just as a blanket statement,
2 especially that early in the litigation.

3 Q And you especially doubt you would have
4 made it if you didn't have some basis for doing so,
5 if no one had said anything to you about it?

6 A That's right. I would not have made that
7 up out of the thin air.

8 Q And this is consistent, isn't it, with the
9 part of the memo dealing with Jim Guy Tucker
10 conflicts, that you probably learned about that at
11 that Madison board meeting?

12 MR. PORTNOY: What's consistent with
13 that -- with what part of the memo?

14 MR. BARTOLOMUCCI: Let me ask the question
15 this way.

16 BY MR. BARTOLOMUCCI:

17 Q I mean, if you said something to
18 Ms. Heritage about conflicts with respect to Jim Guy
19 Tucker, you probably learned it at that July 15, 1986
20 board meeting; right?

21 A Not necessarily. I mean, that assumes
22 that, number one, I learned it at the board meeting,

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1 which may or may not be true. I might not have been
2 in that portion of the meeting. And secondly, it may
3 be something that I knew prior to the board meeting.

4 I don't remember what I knew and learned
5 and when back then. That is one possible
6 explanation.

7 Q Just to close the loop on this same subject
8 matter, you would have been aware in 1987 that
9 there's an ethical rule prohibiting attorneys from
10 making knowingly false statements to any third party
11 in connection with a representation?

12 MR. FOX: What is that rule number?

13 MR. BARTOLOMUCCI: This would be the
14 current Rule 4.1.

15 MR. FOX: All right.

16 MR. BARTOLOMUCCI: I would be happy to read
17 it. It says --

18 MR. FOX: It is okay. Obviously we don't
19 have any problem. The rule speaks for itself.

20 BY MR. BARTOLOMUCCI:

21 Q Okay, but I guess my question, Mr. Hopkins,
22 you are aware now that that's a general rule guiding

1 the ethical conduct of attorneys; right?

2 A Yes, sir. I am familiar with the rules of
3 ethics, including the ones about statements true or
4 false.

5 Q Okay. And you would have been aware of
6 that in 1987?

7 A Absolutely.

8 Q Now, from any source other than Charles
9 Peacock, have you come to learn that money loaned to
10 Charles Peacock was diverted to the Clinton campaign?

11 A No. And by that, I am discounting anything
12 I have read in the paper.

13 Q Right, I'm not interested in what you
14 learned in the newspaper.

15 A The source from in the paper, but no.

16 Q And apart from anything you have learned in
17 the newspapers or from Mr. Peacock, did you ever come
18 to learn that Bill Clinton assured McDougal that a
19 state agency would lease space from Madison?

20 A I've never come to learn that. Apart from
21 what I read in the paper and apart from what I may
22 have been told by Mr. Peacock -- and again I am not

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1 saying what I did or didn't hear from him. I am
2 excluding that -- apart from those two exceptions, I
3 have never learned any information on the topic of
4 leases.

5 Q I think I am basically through at this
6 point and I am going to turn it over to Mr. Portnoy.
7 But I just want to ask you, and give you opportunity
8 to tell me anything you want that you think is
9 necessary to make the record full and complete.

10 A The only thing I can add is my memory is
11 very limited on this subject, and it is extremely
12 handicapped due to my total lack of any files,
13 pleadings, notes or anything else from my particular
14 representations that would assist. That's all I
15 really can add.

16 Q So you are at a disadvantage with respect
17 to Pat Heritage and Lance Miller because you don't
18 have any notes or memos of that time?

19 A That's correct. If I did, I would be glad
20 to share them with you, but I simply do not have
21 them.

22 MR. BARTOLOMUCCI: I am going to let

1 Mr. Portnoy at this time ask you some questions.

2 THE WITNESS: Thank you for your courtesy,
3 sir.

4 MR. BARTOLOMUCCI: Thank you.

5 EXAMINATION

6 BY MR. PORTNOY:

7 Q Good afternoon, sir.

8 A Good afternoon.

9 Q I have very little to add, Mr. Hopkins.

10 A Yes, sir.

11 Q Do you have any firsthand knowledge
12 regarding any of the statements in the two documents
13 that Mr. Bartolomucci provided to you?

14 A Let me review them again, but I believe the
15 answer is no. But rather than speculate, let me read
16 the memo one more time.

17 (Pause.)

18 No.

19 Q To the best of your recollection, did you
20 ever investigate any of the claims of assertions made
21 in either of the documents that Mr. Bartolomucci
22 provided to you?

1 A I have no memory of doing so. Once again,
2 it is possible, but I don't have any memory of doing
3 so.

4 Q Do you have any recollection of learning
5 anything about any of these allegations from a source
6 other than publicly available information or your
7 client?

8 A No, those would be the only two sources.

9 Q Would it be fair to say, sir, that any
10 information you might have had about the subjects
11 discussed in the documents, provided to you by
12 Mr. Bartolomucci, in April of 1987 would have derived
13 from conversations with your client?

14 A Yes.

15 Q And your conversations with your client are
16 privileged under the attorney-client privilege?

17 A Yes, sir, under -- yes. Yes, sir.

18 MR. PORTNOY: That's all I have. Thank you
19 for your courtesy.

20 MR. BARTOLOMUCCI: I just want to ask a few
21 redirect questions.

22 EXAMINATION

1 BY MR. BARTOLOMUCCI:

2 Q Now, with respect to the attorney-client
3 privilege, would you agree with me that if
4 Mr. Peacock told you something that was covered by
5 the attorney-client privilege, and then you went and
6 said it to a third party, would you agree with me
7 that that would waive the privilege?

8 A No.

9 Q Why not?

10 A I simply do not agree.

11 Q It is not your understanding of the law
12 that when you disclose a privileged communication to
13 someone outside of the confidential relationship,
14 that that waives the privilege?

15 A No.

16 Q Well, okay, so if Mr. Peacock were to tell
17 you something in confidence, and then you were to
18 publish in the newspaper a verbatim account of what
19 he told you, is it your position that that
20 communication would continue to be confidential; that
21 is, that it would continue to be covered under the
22 attorney-client privilege?

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1 A Yes.

2 Q Are there any circumstances under which the
3 attorney-client privilege can be waived?

4 MR. PORTNOY: At this point, just a moment,
5 I am going to object.

6 MR. FOX: Hold on. This is Tim again. I
7 want to make sure I understand it. Chris, was your
8 question what the client would have told Mr. Hopkins
9 in their specific conversation, would that have still
10 been covered versus could Mr. Hopkins be questioned
11 about things that were reported in the newspaper;
12 there is as difference, isn't there?

13 MR. BARTOLOMUCCI: Let me put the question
14 this way --

15 MR. PORTNOY: Before you do, let me object
16 and state for the record that I think it is entirely
17 inappropriate to be engaging in a legal discussion
18 with the witness, who is here as a fact witness. And
19 that if counsel wishes to discuss or dispute the
20 assertions of attorney-client privilege, that those
21 discussions are properly held among counsel and not
22 during a deposition with the witness.

1 MR. BARTOLOMUCCI: Mr. Portnoy, I have to
2 disagree. Although Mr. Hopkins is a witness, he is
3 also an attorney who has invoked the attorney-client
4 privilege in declining to answer fully some of my
5 questions.

6 I will also point out that we have probed
7 witnesses, and I am thinking -- well, I am thinking
8 in particular of Mr. Lindsey and Mr. Kennedy, as to
9 their understanding of the privilege and the
10 circumstances under which it can be waived.

11 So I think it is fully appropriate for me
12 to at least get on the record what Mr. Hopkins's
13 current understanding of the privilege is,
14 recognizing that he hasn't, you know, reviewed this
15 area of law for this deposition or that he is an
16 expert in the field.

17 MR. PORTNOY: And understanding that his
18 counsel may have a different view and that he is
19 taking the privilege based on advice of counsel, and
20 consequently, that his current understanding is
21 without legal significance.

22 MR. BARTOLOMUCCI: All that being said, let

1 me just ask you again, Mr. Hopkins, this question.

2 BY MR. BARTOLOMUCCI:

3 Q If a client tells you a confidential
4 communication, one that falls within the
5 attorney-client privilege, and then you turn around
6 and tell that privileged communication to a third
7 party, is it your position that the privilege has not
8 been breached?

9 A It is my position that the -- that that
10 does not automatically waive the privilege. And it's
11 a very complicated area of the law that I am not
12 prepared to discuss the nuances of. I am acting on
13 advice of counsel and I am erring on the side of
14 preserving the privilege. So unless you can give me
15 a statutory cite that I should review to change my
16 opinion, I disagree with your statement.

17 Q We are not going to get into a debate over
18 the law of privilege here. I wanted to know what
19 your current understanding of it is.

20 Let me ask you this question: Based upon
21 the documents that I've shared with you today, do you
22 think that it's -- do you think that it is more

1 likely than not that you talked to Pat Heritage in
2 April of 1987?

3 A I don't know one way or another. If you
4 want me to speculate, I will say it is 51 percent
5 probable that I did and 49 percent that I didn't.
6 Would be nothing but a mere guess on my part.

7 Q That's fine. And that's because you have
8 no specific recollection of the conversation?

9 A That's right. I generally know
10 Ms. Heritage to be truthful.

11 Q You've never discussed with her this
12 matter, whether you had this conversation with her?

13 A No.

14 MR. BARTOLOMUCCI: I think that's all the
15 questions I have. Jim, are you done?

16 MR. PORTNOY: I have nothing further.


17 MR. BARTOLOMUCCI: Okay, we are finished.
18 (Whereupon, at 1:15 p.m., the deposition
19 was concluded.)
20
21
22

GREGORY M. HOPKINS

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

**DEPOSITION OF PAUL MALLARD
IN RE: S. RES. 120**

WEDNESDAY, FEBRUARY 14, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of PAUL MALLARD, called for examination pursuant to notice of deposition, at 3:45 p.m. in Room 640-A of the Hart Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.

Majority Associate Special Counsel

JAMES S. PORTNOY, Esq.

Minority Associate Special Counsel

STEVEN H. FROMEWICK, Esq.

Minority Assistant Special Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

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PROCEEDINGS

MR. O'CALLAGHAN: Let's go on the record.

Good afternoon, Mr. Mallard. My name is Michael O'Callaghan. I am associate special counsel with the Majority, on the Special Committee. With me is Jim Portnoy who is Minority counsel, and also Steve Fromewick who is also Minority counsel. We are calling you by telephone today to conduct a deposition pursuant to Senate Resolution 120.

The resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services Inc., and other related matters.

Before we came on the record, we had discussions with regard to your consenting to being sworn in via telephone by the court reporter that is situated here in Washington. Do you agree to be sworn in by the court reporter via telephone?

THE WITNESS: I will.

Whereupon,

PAUL MALLARD

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. O'CALLAGHAN:

Q Mr. Mallard, this is a deposition in advance of public hearings which will take place in February, and there is a very good chance that you will be asked to testify at those hearings. We are going to ask you a series of questions today. You are testifying under oath, you were just sworn in.

If you don't understand a question, please let either me or Minority counsel know and we will be happy to rephrase the question. If you need a break, also let us know and we will be happy to accommodate you. The stenographer is preparing a record of questions and answers.

The deposition will be treated as Committee confidential until the commencement of the hearings. Prior to the hearings, you will be given an opportunity to review your transcript and also be provided with an errata sheet, on which you can make

1 note of any corrections for transcription on that
2 sheet, should you feel that's necessary, and return
3 it to us. You will also have ample time to review
4 your transcript prior to the public hearings, which
5 you may be called to testify before.

6 Could you please state and spell your full
7 name for the record.

8 A Paul Mallard, P-a-u-l, M-a-l-l-a-r-d.

9 Q Is anyone with you today, Mr. Mallard?

10 A No one.

11 Q You said no one?

12 A No one.

13 Q Did you realize you were entitled to be
14 represented by counsel today?

15 A Yes, I understand I am entitled, but --
16 yes.

17 Q With regard to the questions today,
18 objections to the form of the question will be noted
19 for the record and objections on grounds of privilege
20 or relevance may be made and the Committee Chairman
21 will rule on objections where the witness refuses to
22 answer a question.

1 A Okay.

2 Q Have you spoken to anyone prior to this
3 deposition with regard to the subject matter of the
4 deposition?

5 A Beg your pardon? You want to talk up a
6 bit. It is a little difficult to understand.

7 Q I will ask you a slightly different
8 question which is probably more appropriate. Have
9 you spoken to anyone before this deposition about the
10 deposition?

11 A Well, yes, somebody called me yesterday or
12 day before yesterday.

13 Q You mean someone from the Special
14 Committee?

15 A Yes. I think it is Brenner.

16 Q Have you spoken to anyone else?

17 A No, not that I know. About this
18 deposition?

19 Q Yes, family, friends, work people.

20 A Sure, sure, my family knows about it, sure.

21 Q Anyone else?

22 A Well, now, I went back to state building

1 services where I'd worked before and picked up some
2 files that they had sent to you, I think.

3 Q So you reviewed the documents that were --

4 A Yes, I tried to review them. They are not
5 very plain. I can't -- some of them -- they come off
6 the microfiche and they are not very legible.

7 Q Do you have those before you today?

8 A I have them here, but not before me.

9 Q Okay. Are they accessible?

10 A Well, yes, they are accessible.

11 Q I would like to make a suggestion --

12 A But I am saying to you I can't read them.

13 They are illegible.

14 Q There will be a number of documents which I
15 am going to --

16 A From that file?

17 Q That have been provided to us by state
18 building services --

19 A Okay.

20 Q -- that I am going to refer to today or I
21 may refer to, to try to help refresh your
22 recollection at different times, or ask you about

1 certain events.

2 So you have reviewed what has been provided
3 to the Committee?

4 A Well, I'm assuming, yes, yes.

5 Q Who did you speak with at state building
6 services?

7 A Executive secretary.

8 Q Who is that?

9 A Gabby Eaton. She is the executive
10 director's secretary.

11 Q Did you speak to anyone else there?

12 A No, no. I spoke to a lot of people. I
13 didn't speak to them about this.

14 Q Have you spoken to anyone else about the
15 deposition?

16 A No, I haven't.

17 Q Have you spoken to anyone at the White
18 House about the deposition?

19 A No, not about this deposition I haven't,
20 no.

21 Q Getting prepared for this deposition, did
22 you talk to anybody about the anticipated subject

1 matter of the deposition?

2 A Not -- not particular. I think Mr. Brenner
3 mentioned what it would be about.

4 Q Outside of Mr. Brenner?

5 A No, not in particular.

6 Q Anyone at all?

7 A In the state building service, when I
8 picked up the files, of course I spoke to her about
9 what you-all wanted.

10 Q You spoke with Ms. Eaton?

11 A Yes, Ms. Eaton.

12 Q Anyone else?

13 A Not that I remember, no.

14 Q Are you presently employed?

15 A Beg your pardon?

16 Q Are you presently employed?

17 A Yes.

18 Q What's your present position?

19 A I'm a field investigator for the Arkansas
20 Revenue Department.

21 Q Is the revenue department part of -- a
22 subdepartment of a larger agency?

10

1 A Yes, it is the department of finance and
2 administration.

3 Q And how long have you been there?

4 A Since -- gosh, I would have to think. I
5 think since about 1988. Seems like December 1988.

6

7

8 Q Prior to going to the Arkansas Revenue
9 Department, where were you employed?

10 A Well, I was employed -- the previous
11 occupation was director of Arkansas State Building
12 Services.

13 Q For what time period?

14 A Oh, from -- I think about the first week in
15 February until, oh, July, August, something like
16 that, in 1987. About 4-1/2 -- four, 4-1/2 years.

17 Q I'm sorry, what year did you start there?

18 A 1983.

19 Q Okay.

20 A It was either January or February, 1983.

21 Q Okay.

22 And how did you come to that position?

1 A I was appointed by the governor, Governor
2 Bill Clinton.

3 Q What had you done prior to becoming
4 director of state building services?

5 A I had been an owner of a contracting
6 company.

7 Q What was the name of that firm?

8 A Mallard Construction Company,
9 Incorporated.

10 Q What were the terms of your employment?

11 A I beg your pardon?

12 Q What were the terms of your employment as
13 director?

14 A Well, you served at the pleasure of the
15 governor, so that's the -- you talking about the
16 length of terms or --

17 Q Among other things, the length of the
18 term --

19 A You served at the pleasure of the
20 governor. You are appointed and normally you are
21 there as long as the governor is there, until you
22 resign or until the governor resigns you, one or the

12

1 other.

2 Q How did you come to leave state building
3 services?

4 A I resigned.

5 Q I'm sorry, what date was that when you
6 resigned there?

7 A When?

8 Q Yes, sir.

9 A You know, I don't know. I think it's
10 sometime -- it was either in July, August of 1987,
11 somewhere along that time, when he got me a
12 replacement, so --

13 Q Okay. And what were your reasons for
14 resigning?

15 A Oh, just tired. I had promised him I would
16 stay two years when I went up there, and it went on
17 to four and almost to five. In fact, I told him the
18 year before I was ready to leave to get me a
19 replacement, so -- I was just ready to come home.

20 Q Okay.

21 A Very stressful job. It is still a
22 stressful job.

1 Q I bet.

2 During the time that you were director of
3 the state building services, were you aware whether
4 the state leased any space from Madison Savings &
5 Loan or Madison Financial?

6 A Did we lease any from them?

7 Q Yes.

8 A Yes, we did.

9 Q What leases are you familiar with?

10 A Well, I don't think we ever made but two
11 leases with him, and one was Arkansas Housing
12 Development. And then there is another lease that
13 they made, I think with the revenue department, which
14 may have been -- I am not sure if it was made when I
15 was there or not. It may have been made at a later
16 date.

17 Q With regard to the Arkansas Housing
18 Development Agency lease that you just referenced,
19 did you have any role in participation of that
20 project?

21 A Any role in what now?

22 Q In securing a lease for that agency.

1 A Well, sure. We had a role in securing
2 leases for every agency in the state. That's what
3 our job was, to supply housing for all of the
4 agencies.

5 Q Did you have any personal involvement with
6 the particular leasing project associated with the
7 AHDA?

8 A Yes.

9 Q And could you generally describe what your
10 level of participation was and then I will ask you
11 some more specific questions.

12 A Would I describe that? Say that again, I
13 am having trouble understanding you. I don't know
14 whether it is my phone.

15 Q It is probably me. I apologize if I am
16 mumbling.

17 The question was if you can give me a
18 description of the level of participation you had in
19 securing a lease for AHDA during your tenure.

20 A Well, I'm sure that the -- we are talking
21 back a long time ago and I will give you what I
22 think. Probably AHDA came to us looking for space.

1 They had to move. It seemed to me like they had got
2 more staff members during the previous legislative
3 session and had to have more space. And then I'm
4 sure that the -- in fact, I know that the Madison
5 Guaranty come to us with space available and we put
6 the two together. That's the way we done all
7 leasing.

8 Q Who in your agency was involved in getting
9 the lease for AHDA?

10 A Beg your pardon?

11 Q Who at the agency was involved with the
12 lease with AHDA and Madison?

13 A Who was the agent?

14 Q Who at the agency, what personnel members
15 worked on this project?

16 A Oh, I would -- of course the leasing
17 administrator worked on it, it was Helen Herr, or
18 Helen Vowell at that time, I think. And then I don't
19 know who -- we had several leasing agents under her
20 and I am not really sure who. I could go back and
21 get probably the lease, copy of the lease and see who
22 signed it. It was probably Morris Patterson,

16

1 probably. I am not really sure.

2 Q Do you recall when AHDA first came to state
3 building services requesting the agent to find new
4 office space for them?

5 A Well, I'm not -- I can't give you exact
6 specifics. I am sure it would be sometime after the
7 session was over.

8 Q When did the session take place?

9 A I think it was in '83.

10 Q Do you know what time of year?

11 A Well, it is usually -- well, the regular
12 session runs from January through March, so it would
13 be sometime after that, probably.

14 Q Why would that be after the session?

15 A Well, that's when you get your new
16 appropriations, your new positions. If you are going
17 to get some increased positions or increased funding,
18 that's when you get it, is during the session,
19 through your new budget.

20 Q And how did agencies normally approach
21 state building services with regard to trying to get
22 new space? Did they contact you or somebody else?

1 A They would contact, yes, the leasing
2 administrator or their leasing agent, whichever one.

3 Q Each agency was assigned a leasing
4 administrator or leasing agent?

5 A Not each -- one leasing administrator would
6 have 10 or 15 agencies they would take care of. As
7 they had needs arrive, they would contact the leasing
8 administrator and sometimes people would contact me
9 direct. That wasn't very often.

10 Q Were you contacted directly with regard to
11 the AHDA lease?

12 A Was I contacted directly?

13 Q Yes, sir.

14 A I think I was contacted directly from
15 Madison, but I don't think I was from -- directly
16 from the agency, AHDA.

17 Q Who contacted you from Madison?

18 A You know, I just can't remember exactly,
19 but I would assume right now it would be McDougal.

20 Q Would that be Jim McDougal?

21 A Yes, Jim McDougal.

22 Q And with that after -- I guess it will make

1 sense, but was that after AHDA made a request for a
2 new space?

3 A I am sure it was. I am almost positive it
4 was. There had to be the news on the street that
5 someone needed a building or something, or needed a
6 new spot.

7 Q Did he contact you at your offices or on
8 the phone, do you recall?

9 A I didn't understand you. Did he what now?

10 Q When Mr. McDougal contacted you, did he
11 contact you at the office, in person, or was it over
12 the phone?

13 A Oh, no. I think it was over the
14 telephone. I am almost certain it would be over the
15 telephone. And I am really not sure about that.
16 You-all are asking me to think about things -- how
17 long ago was that, 13, 15 years ago, 12 years ago.

18 Q Probably about 12 years ago.

19 A Okay.

20 Q In that neighborhood.

21 A Right.

22 Q And I appreciate that some time has passed,

1 but I will try to help you along and we will try to
2 flesh out the facts as best we can.

3 When you spoke with Mr. McDougal, do you
4 remember what the contents of the conversation were?

5 A I do not. You know, I am assuming that he
6 contacted me to tell me that he had this space
7 available or was going to have it available. And I'm
8 not sure it was even specific for AHDA because we
9 always had people that would call us and say we have
10 space available if you have a tenant for us and blah,
11 blah, blah. I am assuming it was maybe that way.

12 Q Do you recall whether that -- during the
13 conversation whether he mentioned that the governor
14 had directed him to call you with regard to their
15 open space?

16 A No, I do not.

17 Q You don't remember or it didn't happen?

18 A Well, it didn't happen, I'm sure.

19 Q Why are you sure of that?

20 A Well, I just -- the governor called me
21 about providing space or putting anybody in any
22 space?

20

1 Q I am talking about did Mr. McDougal tell
2 you the governor had directed him --

3 A No.

4 Q -- and directed that he call you?

5 A No.

6 Q Do you have any other -- did Mr. McDougal
7 give you a proposal for any pricing or any of the --
8 any pricing for the space at Madison?

9 A Well, now, just -- I am assuming that he
10 did. Probably what we told him to do was to write up
11 a proposal and send it to us, of what he had, what he
12 was going to have available, and you know, similar to
13 that.

14 Q Did you have any face-to-face meetings with
15 either Mr. McDougal or Susan McDougal with regard to
16 leasing out the Madison space?

17 A Oh, yes, I am sure I saw them, but probably
18 not specific meetings about that.

19 I know that after it got -- the lease
20 got -- we got started on the thing, they had to meet
21 with our staff on what kind of renovations was going
22 in, the size of the offices and different things.

1 And I know that Mrs. McDougal was there at our
2 building several times and I would just casually see
3 her.

4 Q Do you recall whether you had any meetings
5 with either of the McDougals in the offices previous
6 to their submitting a bid or proposal?

7 A In what offices?

8 Q In the state building services offices.

9 A I am sure, if they was in the building.

10 Now, I don't remember Mr. McDougal ever being in our
11 office building. Susan McDougal was there. I can
12 recall her being there two or three times maybe. And
13 I am sure if they was in the building, they would
14 come by.

15 Q And were you friends with the McDougals at
16 this time?

17 A I was an acquaintance, you know, acquainted
18 with them for years and years and years before that.
19 I wouldn't say friends, I wouldn't say social
20 friends, but we had known each other for a long
21 time. Now, not Susan McDougal, but Jim McDougal, I
22 had known Jim McDougal for a number of years.

1 Q Do you recall a meeting at your offices at
2 state building services, with Mrs. McDougal, Susan
3 McDougal, and where Helen Vowell came by?

4 A Well, I'm sure that -- I'm sure that
5 probably she went to Ms. Vowell's office first if she
6 come there. It is a good possibility they could have
7 come by my office.

8 Q Do you recall introducing Mrs. Vowell to
9 Mrs. McDougal?

10 A Well, it could be possible. I don't recall
11 it specifically, but it is possible.

12 Q Do you recall -- this is also just to help
13 your recollection, Mr. Mallard. Do you recall having
14 a meeting with Mrs. McDougal, Susan McDougal, where
15 Helen Vowell participated and the suggestion was made
16 that Ms. Vowell go down to look at the Madison
17 building, to look at it as a possible leasing space
18 for AHDA?

19 A Well, now that's -- there again, there is a
20 possibility. I don't recall that specifically at
21 all. I don't -- I don't have any recollection of it,
22 but I am saying it is a possibility.

1 Q It wouldn't surprise you if you had a
2 meeting like that?

3 A Well, no, no, it wouldn't. That was a --
4 we had that type meetings all the time.

5 Q Mr. Mallard, were you involve in evaluating
6 any of the different proposals that came in for
7 leasing space contracts?

8 A No. Was I involved in any of the
9 proposals?

10 Q Did you have a role in evaluating them?

11 A Oh, yes, on a lot of them, yes, I did.
12 Yes.

13 Q Who made the final decision on which lease
14 to go with at the agency?

15 A You know, I am really -- on what lease are
16 you talking about? Any particular lease?

17 Q First in general, and then I will ask you
18 specifically.

19 A What now? Say that again. You are talking
20 too fast or too low. I can't understand you too
21 well.

22 Q I'm sorry.

1 The question was, was there one person at
2 the agency who made the final decision on which lease
3 to enter into?

4 A In most cases they were just routine
5 leases. A lot of them were just renewals and a lot
6 of time Ms. Vowell, she made the decision, but if
7 there was any kind of -- anything that I needed to
8 look at or to be in on, she would bring it to me.

9 Q What type of things would cause her to
10 bring it to you?

11 A Beg your pardon?

12 Q What type of things would cause her to
13 bring them to you for your review?

14 A Well, if it was a new lease, a big lease,
15 or one of the -- maybe the agency leasing it wasn't
16 satisfied or something like that. It could be
17 anything in general.

18 Q During the period 1983 through 1984 --

19 A Yes.

20 Q -- did there come a time when you had made
21 a decision that the agency was going to rent space
22 from Madison Guaranty with regard to AHDA?

1 A Now, did I make that decision? Is that
2 what you are saying?

3 Q Correct.

4 A Yes, I think I did on that.

5 Q Do you recall how soon after the bid or
6 proposal that was submitted by Madison you made that
7 decision?

8 A No, I'm really -- I really don't. Not
9 specifically. I don't remember any of the specific
10 times, dates. It's just been too long.

11 THE WITNESS: Are you still there?

12 MR. O'CALLAGHAN: Yes, I am still here.
13 I'm sorry. I am going through some documents trying
14 to see if I can find anything that will help us flesh
15 out facts here.

16 BY MR. O'CALLAGHAN:

17 Q When you made the decision to go with the
18 Madison proposal for the lease, did you inform
19 anybody of your decision?

20 A What do you mean, did I inform -- well, I
21 am sure I did. I am sure I informed Ms. Herr -- or
22 Ms. Vowell, and I'm sure she -- yes, I am sure I did

1 inform her.

2 Q Had she already come to you with questions
3 about this lease?

4 A About which lease?

5 Q The AHDA lease with Madison.

6 A That specific building or what?

7 Q Correct.

8 A I am sure we discussed it throughout the
9 process of getting a lease ready.

10 Q Did she express any concerns that she had
11 with regard to leasing the Madison space?

12 A Madison, is that what you are saying,
13 Madison space?

14 Q Yes, sir.

15 A You know, not that I can recall. She may
16 have.

17 Q And just so we are clear on the record, we
18 are talking about the Madison Guaranty Savings & Loan
19 building that was located 1501 Main Street; is that
20 right?

21 A Right.

22 Q Okay. Do you recall anyone expressing

1 concerns with regard to entering into a lease with
2 Madison Guaranty --

3 A Well, yes, Wooten Epes and his entire staff
4 was objecting to it -- at the last, very strongly.

5 Q When did they first voice their objections
6 to leasing the Madison space?

7 A I think as soon as we wouldn't allow them
8 to lease the space they wanted.

9 Q Do you recall which space they wanted to
10 lease?

11 A Right offhand I am just really not sure.
12 It was -- seemed like in this file here, something on
13 Brookhaven Drive or something.

14 Q Would that be 1300 Brookwood Drive?

15 A Brookwood, yes. Brookwood, I think that is
16 one they had requested, that he had wrote a letter
17 back to Ms. Vowell or something, requesting that
18 property.

19 Q I have a document in front of me which I am
20 going to describe to you. It is dated October 31,
21 1983. It is on Arkansas Housing Development Agency
22 letterhead, Bates stamps are DKS N 016566. It is

28

1 addressed to Mr. Carl Brooks, state building
2 services.

3 A Okay.

4 Q And it reads "Dear Carl, after reviewing
5 the office space which your agency has surveyed, the
6 AHDA requests to negotiate with Rector, Phillips &
7 Morse to obtain a lease from the owner of the
8 property located at 1320 Brookwood." And it is
9 signed "sincerely, Wooten Epes."

10 Do you recall seeing that document?

11 A Now, I think I've got a document similar to
12 that that I can't -- it is not very legible. I can't
13 read it too well, but I am assuming that yes,
14 probably I did see it, yes.

15 Q That was October 1983. Is that consistent
16 with your recollection as to when --

17 A I have no recollection. You know, I am
18 just assuming that I have seen these documents at
19 some time in the past or sometime.

20 Q Do you recall AHDA requesting that your
21 agency negotiate a lease with Rector, Phillips &
22 Horn?

1 A I think it is Rector, Phillips & Morse,
2 isn't it?

3 Q It may be.

4 A There was a real estate company in Little
5 Rock by the name of Rector Phillips & Morse.

6 Q The copies are hard to read. It is
7 M-o-r-s-e?

8 A Yes.

9 MR. PORTNOY: Sir, if I can interject for a
10 moment, you stated before you were surmising that you
11 had seen these documents rather than actually
12 recalling that you had seen them. If I could just
13 ask you to try to be clear in your testimony about
14 whether you recall seeing documents before, or you
15 just believe --

16 THE WITNESS: Well, I don't recall
17 specifically. I assume -- can you give me an
18 assumption?

19 MR. PORTNOY: Absolutely.

20 THE WITNESS: I believe the documents was
21 laid before me sometime, 15 years or 13 years ago, or
22 whenever it was, and I cannot remember specifics.

30

1 MR. PORTNOY: Sir, I am not asking you to
2 remember what you don't. I am asking if you could,
3 for our benefit, please be clear about what you do
4 remember and what's an assumption, that's all.

5 THE WITNESS: Okay. All of this is an
6 assumption; everything I have said, I assume.

7 BY MR. O'CALLAGHAN:

8 Q But you do have some memory of the events
9 we are discussing; is that right?

10 A I do, yes.

11 Q And you remember that you had meetings and
12 discussions with the McDougals; is that right?

13 A Well, yes, I -- yes. You have meetings
14 with everybody that you lease buildings from or lease
15 buildings to.

16 Q At one point, did the Arkansas Housing
17 Development Agency lodge a formal rejection of the
18 proposal to lease the Madison Guaranty space?

19 A There again, I can't tell you specifically
20 whether they did or didn't. I know they objected to
21 it greatly. That's what I know. I can remember
22 that.

1 Q Do you remember how that was first brought
2 to your attention?

3 A Well, I am assuming Ms. Herr -- or by
4 Ms. Vowell. I think Ms. Vowell at that time.

5 Q And for the record, Ms. Vowell --

6 A Is Ms. Herr.

7 Q -- is Ms. Herr?

8 A That's right.

9 Q Do you recall what she told you?

10 A I do not, not specifically.

11 Q Do you recall whether or not she was
12 referring to a letter sent by Mr. Epes, saying that
13 AHDA had decided to reject a proposal of Madison
14 Guaranty to provide office space at 1501 Main?

15 A Well, yes, I assume they did send a letter
16 rejecting it. And I think -- just thinking -- I
17 think I talked to Mr. Epes on the telephone. And
18 likely I did.

19 Q Do you recall what the contents of your
20 conversation were with Mr. Epes?

21 A Not specifically, I do not.

22 Q When Ms. Herr brought the concerns of the

1 Arkansas Housing Development Agency to your attention
2 and the fact that they didn't want to move into the
3 Madison building --

4 A Right.

5 Q -- do you recall what you said in response
6 to the concerns she raised?

7 A Not specifically, I don't. No, I do not
8 know what I said. But I know this was not an unusual
9 thing, that every time we moved an agency, usually
10 someone within that agency objected.

11 I mean, this was nothing unusual. You
12 would have someone within the agency would have to
13 drive a few miles further. You would have someone in
14 the agency that would lose a parking place. You
15 would -- every time you move somebody, if you didn't
16 let them go exactly where they wanted to go, and then
17 there were some dissatisfied if you let them go where
18 they wanted to go.

19 Q But was it common for the director of an
20 agency to make a direct plea to you not to move into
21 a building?

22 A Oh, yes. Oh, yes. Yes, you will get --

1 you would always have agency directors that would --
2 a lot of times I had them called me saying they
3 wasn't going to move. They couldn't, wouldn't move.

4 Q During a conversation with Ms. Herr --

5 A What now?

6 Q During any of the conversations with
7 Ms. Herr with regard to AHDA's unwillingness to move
8 to the Madison building, do you recall any
9 conversations you had with her with regard to telling
10 her that one of the reasons why AHDA -- why they were
11 going to move into the Madison space was because
12 people from the governor's office wanted to execute a
13 lease with Madison?

14 A No, I do not.

15 Q Did you have any discussions with the
16 governor with regard to --

17 A Say that again?

18 Q Sure, I'm sorry.

19 Did you have any discussions with the
20 governor with regard to leasing the Madison, any of
21 the -- leasing Madison Guaranty space to AHDA?

22 A I never had any conversation with him at

34

1 all about it.

2 Q Did you have any conversations with anyone
3 in the governor's office about leasing Madison space
4 to AHDA?

5 A I think the only one -- it is a possibility
6 that I may have went by Sam Bratton with him. He was
7 our agency liaison. I am sure that probably
8 during -- somewhere during this confrontation, but
9 the only other one I know of was Bob Nash. He was
10 the liaison for Arkansas Housing Development. And
11 they asked for a special meeting with him, and with
12 me, to try to change our minds.

13 Q With regard to Mr. Bratton, what
14 conversation did you have with him?

15 A I don't remember any conversation
16 specifically. I am just saying that I may have said
17 something to him during all this. I may have. I am
18 not even sure that I did say anything to them.

19 Q Do you know if you had any conversations
20 with him with regard to AHDA's unwillingness to move
21 into the Madison space?

22 A That's what I say. I don't know for sure

1 that I did. He was my liaison. In other words, he
2 was my operative between the governor's office and
3 our agency, which he had another dozen agencies, that
4 was the same.

5 Q Did anyone at the governor's office ever
6 express to you request a preference in the governor's
7 office to lease out the Madison space?

8 A No one. As I say, the only one put us
9 together was Bob Nash and he was on AHDA's side.
10 That's what I suppose, that's what I think.

11 Q When you said that was "the only one put us
12 together," what did you mean by that?

13 A I guess Wooten requested a meeting between
14 his agency and our agency, and me, specifically me.
15 And I met with him one night in Bob Nash's office, as
16 I remember, and Wooten wasn't there. I can
17 definitely remember that he was not there.

18 Q He had requested the meeting?

19 A I think so. I think the deputy director
20 and two board members were there.

21 Q Is that C.E. Anderson?

22 A I can't recall names specifically. It

1 seemed he may have worked for AHDA. Was he the
2 deputy director?

3 Q I believe he was at the time.

4 A Okay, probably him. C.E. Anderson, was
5 that his name?

6 Q Yes, sir.

7 A C.E. Anderson. That rings a bell.

8 Q Who else was at the meeting?

9 A You know, I can't recall. I think it was
10 two of their board members.

11 Q So Bob Nash was there?

12 A I think he was there.

13 Q You were there?

14 A I was there.

15 Q The deputy director, you believe, of AHDA
16 was there?

17 A C.E. Anderson, right.

18 Q And maybe you said one or two other people?

19 A Well, I think there was maybe two of their
20 board members and who they was, I wouldn't know.

21 Q Was Morton Hardwicke there?

22 A You know, I can't recall. I can't recall

1 these names. I just barely can remember my own.

2 Q And if I ask you the names, just in case it
3 helps refresh your recollection, it may come to you,
4 so please, I beg your patience.

5 Did the governor attend this meeting?

6 A No.

7 Q You said the meeting took place at night at
8 Mr. Nash's office?

9 A Right. As I recollect, that's where it was
10 held.

11 Q How close in time was this meeting held
12 before the lease was executed?

13 A Oh, it had to be fairly close. You know, I
14 don't know how close. I don't know when it was, the
15 dates or anything. I'm just --

16 Q Do you remember whether it was like a last
17 minute meeting, that you felt the deal was done and
18 you agreed to meet with these people?

19 A Well, you know, I am really not sure. I
20 know that -- the only thing I know is they was
21 requesting they not be moved down there because their
22 staff was upset about it and this, that and the

1 other, you know.

2 Q Other than Mr. Nash, was there anyone else
3 there from the governor's office in attendance?

4 A No, not that I remember.

5 Q Do you know if Betsey Wright was there?

6 A No.

7 Q No, she wasn't there or, no, you don't
8 remember?

9 A No, she wasn't there.

10 Q Was Sam Bratton there?

11 A No.

12 Q What happened during that meeting?

13 A I've already explained that to you. They
14 made a request that we -- you know, that they not
15 have to lease there. I don't think they made a
16 specific request to lease anywhere else, but -- and
17 they said their staff was upset, you know, and this,
18 that and the other. And I just -- I just declined
19 again and that was the end of the meeting.

20 Q Did you give your reasons for declining?

21 A Did I what now?

22 Q Did you give reasons for why you were

1 declining the request?

2 A Oh, yes, because we felt that this building
3 was more suitable to their needs and we were trying
4 to keep all the agencies in the downtown area. And
5 we were just trying to help downtown Little Rock stay
6 viable and stay alive. At that time there was so
7 many vacant buildings.

8 Q Did Mr. Nash express the opinion of the
9 governor's office?

10 A I don't -- you know, I don't recollect that
11 at all.

12 Q Was he in favor or not in favor of it?

13 A I don't think he expressed his opinion at
14 all. I am not sure. I really can't recollect that
15 good about it.

16 Q I am going describe a document to you.

17 A All right.

18 Q It is a one-page document that's on
19 Arkansas Housing Development Agency letterhead, and
20 our Bates stamps. It is how it was produce to us.

21 A Wait a minute, I am getting to where I
22 can't understand you again. It is not your fault. I

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1 think it is my hearing. I apologize to you if you
2 think it was my fault.

3 MR. PORTNOY: Off the record.

4 (Discussion off the record.)

5 MR. O'CALLAGHAN: Why don't we go back on
6 the record.

7 BY MR. O'CALLAGHAN:

8 Q Mr. Mallard, before we went off the record,
9 I was beginning to describe a document to you on
10 Arkansas Housing Development Agency letterhead --

11 A Yes.

12 Q -- Bates DKS 016527. It's a letter dated
13 March 5, 1984. It is addressed to Ms. Helen Vowell,
14 and it is -- it is apparently from Wooten Epes with
15 the signature Wooten Epes on it. And it says "Dear
16 Helen, AHDA has decided to reject the proposal of
17 Madison Guaranty to provide office space at 1501 Main
18 Street."

19 Do you recall seeing a letter from Mr. Epes
20 rejecting the proposal of Madison Guaranty?

21 A No, you know, not really, I don't. Not
22 specifically, I do not. But that's not unusual.

1 Let me clarify something here. You haven't
2 even asked the question, but it was not unusual for
3 all agencies to reject the space that we chose for
4 them. It was just -- that was just about almost a
5 hundred percent of the time. If we made a choice for
6 the agency, they did not like it for some reason, and
7 then we would have to proceed on with what we had
8 chosen, in most cases.

9 Q Thank you, sir. With regard to this
10 specific letter, which is dated March 5, 1984, do you
11 recall whether the conversation you had with Mr. Epes
12 occurred before or after this letter was sent?

13 A I don't, not specifically. I do not. I do
14 not. No, I do not. I do not recall, no, sir.

15 MR. PORTNOY: I was going to ask, did you
16 testify you had just one conversation with Mr. Epes,
17 or that there might have been more than one?

18 THE WITNESS: There may have been more than
19 one. Yes, there very well could have been, but I do
20 not remember.

21 BY MR. O'CALLAGHAN:

22 Q Did there come a time when you told

1 Mr. Epes that your decision was final, that you
2 wanted the AHDA to move into the Madison building?

3 A Yes, I am sure I did.

4 Q What was his reaction when you told him
5 that?

6 A You know, I'm not -- I'm not sure. I am
7 sure he didn't like it.

8 Q Did he ever tell you that he intended to
9 talk to the governor about it?

10 A I don't -- I don't recall him ever saying
11 that to me, no.

12 Q Are you aware whether he ever did bring
13 this subject up with the governor?

14 A I don't know for sure that he did.

15 Q Did you ever hear that he did?

16 A You know, there again, I'm -- I would be
17 speculating. I am not sure whether he did or not, or
18 whether I ever heard he did or not.

19 Q Did the governor ever tell you he met with
20 Mr. Epes with regard to this lease?

21 A No.

22 Q So he never brought a meeting with Mr. Epes

1 to your attention?

2 A The governor never said anything to me at
3 all about this lease or any other lease that we made
4 while I was at state building service, 4-1/2 years or
5 whatever length of time I was there.

6 Q Did anyone in his office tell you about a
7 meeting between the governor and Mr. Epes?

8 A Not that I can specifically remember, no.

9 Q Do you have a general recollection that
10 that might have happened?

11 A Well, it might have happened, I don't
12 know. I don't have any way of knowing for sure.

13 Q I am just trying to get a feel for, if you
14 have a -- just a general recollection, that that did
15 occur, but you can't specifically recall --

16 A Well, I can't. It might have occurred, but
17 I can't, I just don't recall anybody calling me
18 saying Mr. Epes has met with the governor or anything
19 like that.

20 Q Did you ever see any written correspondence
21 to that effect?

22 A No.

1 Q Do you remember any meetings you had with
2 Ms. Vowell or Ms. Herr with regard to the lease, the
3 AHDA lease? Did you ever say to her that one of the
4 reasons why you were going forward with the lease was
5 because the McDougals were friends of the Clintons
6 and there was a desire to help out the McDougals?

7 A No, I don't specifically remember any
8 conversation like that. You know, I am sure it was
9 assumed. You know, everybody assumed that everybody
10 was friends with the governor, you know.

11 Q At the time -- during the time of this
12 lease, were you aware that the McDougals and the
13 Clintons were familiar with each other?

14 A Why sure, I knew they were familiar with
15 each other. Everybody that was, you know, in
16 business, and, you know, I think I have seen him at
17 fundraisers and various other things or seen Jim at
18 those. And Mr. McDougal has been in politics ever
19 since he's been a little boy, so I knew that --
20 everybody knows everybody here in Arkansas.

21 Q Well, sir, did you know that during the
22 time of this lease, that -- were you aware that the

1 McDougals and the Clintons were engaged in a business
2 venture together?

3 A I don't think that I did.

4 Q Why is that?

5 A Well, I just don't remember.

6 Q Did you ever come to know that they were
7 involved in a business venture together?

8 A Well, I did when I heard the word
9 "Whitewater."

10 Q When did you first learn about that?

11 A Well, the newspapers, the news media and
12 everything else, what has been going on for what,
13 three, four, five years.

14 MR. PORTNOY: It just seems that way, sir.

15 THE WITNESS: Has it not really been that
16 long?

17 MR. PORTNOY: Off the record.

18 (Discussion off the record.)

19 MR. O'CALLAGHAN: Let's go back on the
20 record.

21 BY MR. O'CALLAGHAN:

22 Q You don't think you knew it at the time?

1 A I don't think I did, no.

2 Q During that time, were you involved in any
3 business ventures with the McDougals?

4 A Oh, no, never was. I have known

5 Mr. McDougal for many, many years, but we never had
6 any business dealings.

7 Q Did you do any banking at Madison Guaranty?

8 A Not at all.

9 Q Did you have any investments in any
10 Madison-related entities?

11 A None.

12 Q Other than Mr. Bratton and Mr. Nash, did
13 you have any other contacts with anyone at the
14 governor's office?

15 A Say that again. I didn't quite catch what
16 you said.

17 Q You stated earlier that you had contact
18 with Mr. Bratton?

19 A Right, he was my liaison.

20 Q And Mr. Nash?

21 A Right.

22 Q Did you have contact with anyone else at

1 the governor's office?

2 A Well, I had contact with everybody in the
3 governor's office, but, you know -- are you talking
4 about this specific thing, this Madison deal?

5 Q Just generally, I want to know what the
6 nature of your contact was with the governor's
7 office.

8 A Everybody in the governor's office and
9 everybody who was head of an agency I knew and we all
10 was agency directors and it was a cabinet level
11 position, so you knew everybody. Our agency dealt
12 with every agency in state government, other than the
13 highway department.

14 We supplied all their housing, their
15 contracts, anything, architectural, interior,
16 anything that come up, with all the agencies,
17 colleges, universities, that we had something to do
18 with all of them.

19 Q How much interaction did you have with the
20 governor during this time period?

21 A Very little.

22 Q Would you say on a monthly basis or weekly

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1 basis?

2 A No.

3 Q How would you characterize it?

4 A Characterize what?

5 Q The extent of your interaction with the
6 governor during 1983, 1984.

7 A I would see him at cabinet meetings or
8 agency director meetings, and that was about the
9 extent of it.

10 Q Did anyone at the governor's office make an
11 inquiry --

12 A If you would back up and start all over. I
13 hear you starting real fast and then you slow down.

14 Q I apologize.

15 A I'm sorry, but I just can't understand you.

16 Q That's okay. We will work together on
17 this.

18 A Yes.

19 Q Did anyone from the governor's office ever
20 inquire into leasing of Madison-related space or any
21 Madison owned space?

22 A Not that I can recall. I don't think so.

1 I don't recall them asking us anything or stating any
2 preferences on any leases.

3 Q Do you recall the concerns that were raised
4 by Mr. Epes, or what his objections were to moving
5 into the Madison building?

6 A Not specifically, I don't. Of course -- I
7 really don't specifically. It is probably somewhere
8 in some -- he's probably stated in a letter or
9 something somewhere.

10 Q Okay, well, I have a letter here which I
11 will read to you and then I will ask you some
12 questions about the concerns he raised, or objections
13 he raised.

14 A Okay.

15 Q And I will ask you what your responses
16 were, if you can recall.

17 A Okay.

18 Q I will just read the whole letter. It says
19 "Dear Helen, AHDA has decided to reject the proposal
20 of Madison Guaranty to provide office space at 1501
21 Main." This is the March 5, 1984 letter I referenced
22 earlier. "We initially authorized you to negotiate a

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1 lease at Brookwood Drive for an anticipated net rent
2 of 6.50 per square foot. The final proposal was for
3 7.235 per square foot and gross rental of 8.60 per
4 square foot for a lease space of about 5800 square
5 feet, which would cost" looks like "us \$49,880 at the
6 gross rent price. This proposal was apparently
7 disapproved by building services because the price
8 was not acceptable.

9 "AHDA concurred in the rejection of that
10 bid because we believe that the Madison Guaranty
11 property would be less expensive. An analysis of the
12 Madison Guaranty bid for 6698 square feet," then
13 there is another number which is hard to read in
14 parentheses, "net lease space. The net rental is
15 \$46,886, but we do not have the option of controlling
16 our utility costs. And accordingly, we are expected
17 to pay 1.50 per square foot for utilities and
18 services which would be a gross rental of \$56,933.
19 Therefore, the cost is about \$7000 per year higher.

20 "We would like to stay in a location
21 downtown, preferably within walking distance of our
22 attorneys. In addition, we are expecting approval of

1 additional personnel for the agency within a few
2 months. Then, when we are certain of our needs, we
3 would like to reconsider potential downtown
4 locations. I realize that doing so might mean a
5 drastic reduction in approved parking," I think it is
6 "spaces."

7 Just after I read that letter, does that
8 refresh your recollection as to some of the concerns
9 you raised with regard to the pricing of the Madison
10 building?

11 A You know, that who raised?

12 Q That Mr. Epes raised.

13 A That Epes raised?

14 Q Yes, sir.

15 A You know, I am not really sure. But now he
16 says, you say -- did you say that he said in the
17 letter that he wanted to stay downtown?

18 Q Yes, sir.

19 A Close to his banks?

20 Q Close to the attorneys.

21 A And did you say that he requested that he
22 went the building on Brookhaven?

1 Q That was earlier, yes.

2 A Well, this contradicts itself because
3 Brookhaven Drive is several miles from downtown.
4 That's out in West Little Rock. It is where they
5 requested a building out there.

6 Q I believe this letter followed that letter
7 by some time. I am just wondering if you recall
8 whether they had a problem with the utility costs
9 associated with the Madison lease.

10 A I don't think so. I -- you know, I can't
11 be exact on this, but it seems to me like that, in
12 the final analysis on this thing, the square foot
13 price came out at Madison, something like 40, 50, 60
14 cents a square foot cheaper. I am not sure.

15 Q Do you recall whether he expressed any
16 concerns he had about the space that was available at
17 the Madison building?

18 A Oh, that was always our concern, that we
19 put them in a building that they could expand in so
20 they wouldn't have to move from that building so
21 quickly again if they got additional personnel.

22 Q And you were of the opinion that the

1 Madison building was a place where they could expand?

2 A They did expand.

3 Q But that was considered at the time of the
4 entering into of the lease?

5 A I am assuming it was. You know, I just
6 think probably it was, that we always thought of
7 that. We'd like put a small agency in a -- maybe a
8 multi-agency building or a building that had
9 additional square footage that they could lease on
10 down the road, because almost every -- biannually
11 they would get additional staff. Well, in most cases
12 most agencies are growing, and they get -- each time
13 the legislature meets, they get authorization to hire
14 new people in most cases.

15 Q I will describe a document to you, which is
16 a -- it is a four-page document, and it reads on the
17 front page "Arkansas State Building Services Standard
18 Lease Form One," and --

19 A You talking about just a standard lease,
20 okay.

21 Q Yes, sir, and on the upper right-hand
22 portion of that, it has a lease term of 7/1/84 to

1 6/30/89 annual rent \$58,242, square feet 6852, rate
2 is \$8.50 per square foot and then type OF and then
3 there is a X next to "new" and it is "worked by:
4 HV." And county is 60, agency is 395, suite 01, and
5 then it goes on to say "state of Arkansas lease
6 agreement," says "this lease made this first day of
7 April, 1984, by which Madison Financial Corporation
8 leases to the state of Arkansas ('state') by Arkansas
9 State Building Services ('SBS') for the use of
10 Arkansas Housing Development Agency, 1501 Main
11 Street, Little Rock, Arkansas 72202."

12 And then it goes on to describe the terms
13 of the lease. And on the last page, there is a --
14 there are signatures for the lessor, which is Paul
15 Castleberry, Vice President, Madison Financial
16 Corporation; state agency, Arkansas Housing
17 Development Agency, Wooten Epes. And under
18 Mr. Castleberry's signature, there is a date
19 4/10/84. Handwritten under Mr. Epes's signature
20 there is a date 4/9/84. And then under a line of
21 stars, there is a heading "state of Arkansas." And
22 for Arkansas State Building Services, there's a

1 signature for Helen H. Vowell, SBS leasing
2 administrator, that's dated 4/10/84. Then there is a
3 signature from Paul D. Mallard, SBS director, dated
4 4/10/1984.

5 The document I just described to you I
6 believe is a lease that was entered into by Madison
7 Financial Corporation with the Arkansas Housing
8 Development Agency. Was what I described to you
9 consistent with the lease that was entered into?

10 A Say that again, the last part.

11 Q The document I described to you, is that
12 consistent with the lease that was entered into --

13 A I think that's probably a standard or a
14 state building service lease, right. It sounds like
15 it is the standard lease.

16 Q Do you recall signing that lease?

17 A Well, I don't specifically recall it, but I
18 am sure I did. I was signing sometimes as many as a
19 hundred a day, you know, maybe 1200 a year. So it is
20 hard to remember, but I am sure I did sign, yes,
21 sir. But I can't remember that time and that many.
22 It was just a routine thing, signing leases.

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1 Q Do you have any specific recollection of
2 signing this lease with respect to the objections
3 that were being made by AHDA? Did it stick out in
4 your mind when you signed it?

5 A Sure it would, yes, yes. All of them, all
6 of them, have objections and stuff to it. It is
7 always a relief when you get them finalized, get
8 everybody happy.

9 Q At the time you signed the lease, had the
10 concerns of Mr. Epes been addressed or allayed?

11 A I think they had. I think Wooten was -- I
12 know after he got there, he was happy, and, you know,
13 I would see him from time to time and he expressed
14 himself that he was happy there.

15 Q Did you ever hear that --

16 A Something beeped.

17 Q Is that okay?

18 A Something beeped. I don't know what it
19 is. It is okay.

20 Q Did Governor Clinton ever tell Mr. McDougal
21 that he would get a lease for a state agency at
22 Madison's headquarters?

1 A I don't know what the governor ever told
2 Mr. McDougal. I don't think so. I don't think he
3 did. I didn't know about it if he did.

4 Q And just so we are clear and I didn't get
5 to finish my question, that was supposed to be -- the
6 question was whether the governor said a state agency
7 would lease space from Madison at its headquarters.

8 A Say again, son?

9 Q Sure. Whether Governor Clinton ever told
10 Mr. McDougal that a state agency would lease space
11 from Madison in return for campaign contributions
12 that were made to the governor.

13 A Is that a statement on your part, or are
14 you asking me?

15 Q Do you have any knowledge of that?

16 A No, I do not. No.

17 Q Have you ever heard that?

18 A No, not -- no, no, no, I never heard that,
19 you know.

20 Q Are you familiar with an entity called
21 Dixie Continental Leasing?

22 A Am I familiar with what?

1 Q An entity called Dixie Continental
2 Leasing.

3 A I don't believe I am. I don't believe I
4 ever heard of that.

5 Q Never heard of that?

6 A I don't think I have. Not offhand, I can't
7 recall it anyway.

8 Q Did you attend any fundraisers sponsored by
9 Mr. McDougal in 1984 for the governor?

10 A I attended a lot of fundraisers. I just
11 can't remember right offhand. I can't be specific
12 about it.

13 Q Did you attend any fundraisers organized by
14 anyone by the name of Charles Peacock?

15 A No, not that I remember.

16 Q Do you know who he is?

17 A I don't believe I do. I can't recall.

18 Q Have you ever heard that name before?

19 A Well, I can't recall it. If -- you know,
20 I -- just right now I just can't -- I can't recall
21 the name. If I saw him face to face, I may know who
22 it is. But that's not unusual; I am not good with

1 names, and I am getting worse as the years go by.

2 Q Do you know anyone by the name of Peacock
3 at all?

4 A No, I don't think I do.

5 Q Do you think that would be a name that
6 might stick out in your mind?

7 A Well, I don't know that it would or it
8 wouldn't. I don't guess it would. I am sure we
9 probably got people in this neighborhood by that
10 name, you know. It is a common name, I guess, isn't
11 it?

12 Q Are you still there, Mr. Mallard?

13 A I am here.

14 Q We had a little static.

15 Were you aware that the Arkansas
16 Development Finance Authority entered into another
17 lease in August 1985 or September 1985 with Madison
18 Financial for additional office space?

19 A I know one time that they got more staff.
20 Now, if you will -- those leases should come about
21 every two years or so. And then again, they get more
22 staff at the regular sessions and therefore they had

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1 to have more room. I know -- it seems like one time
2 we had space, leased some additional space from
3 Madison for housing.

4 Q Do you know, were proposals sent out for --
5 were solicitations set out -- let me start over
6 again.

7 Were advertisements sent out for bids on
8 that new lease space?

9 A Well, now, you know, I don't know what --
10 exactly what space, if it was space for department of
11 human services -- I mean, for Arkansas housing, there
12 would have been no need to send out for proposals
13 because they would get additional space in the
14 building, the existing building they was in.

15 Is that the -- what lease are you talking
16 about? I suppose you are still talking about
17 Arkansas Housing Development.

18 Q Yes, I believe they changed names in 1985
19 to Arkansas Development --

20 A Somewhere along there they did.

21 Q To Arkansas Development Finance Authority;
22 is that right?

1 A During that time I am sure -- I can't be
2 exactly sure, but for wanting more space, I am sure
3 they got more personnel authorized, therefore they
4 needed more space and space was available in the
5 building, so they leased more space from Madison.

6 Q Did you approach either the McDougals with
7 regard to renting more space for ADFA?

8 A I am sure. I don't know whether I did or
9 Ms. Vowell did, or one of the state leasing agents
10 did, or what. I don't know what the --

11 Q How about, did you take part in the
12 negotiations of the first lease in 1984?

13 A In the dollar -- you are talking about the
14 dollar amount negotiations or what?

15 Q The dollar and the size of the space and
16 what kind of facilities were available.

17 A Well, I am sure -- more than likely. I
18 can't specifically recall that I did. But more than
19 likely, I did.

20 Q Was that a common thing for you to do on a
21 lot of leases?

22 A Well, I would on some, yes. I was rather

1 new at that time, a new appointment, I was feeling my
2 oats, you know, you know how that goes. Yes, I
3 probably did, I probably did sit in on several of
4 them. I was learning myself, trying to.

5 Q Before you started working at the
6 authority, or state building services --

7 A Right.

8 Q -- were you advised that there were certain
9 properties that the governor's office would like to
10 see leased out?

11 A Say that again. I can't -- I am having
12 trouble understanding you again.

13 Q I apologize. I am probably stepping away
14 from the speaker.

15 A Now you are good and plain.

16 Q I am right up close to it.

17 A All right.

18 Q The question is whether, before you
19 started, you were given any direction or any
20 direction by anyone in the governor's office with
21 regard to specific office space they would like to
22 see leased out?

1 A No.

2 Q Did you ever have any discussions with the
3 governor with regard to his relationship with the
4 McDougals?

5 A I don't -- not that I recall.

6 Q Did you deal with anyone other than the
7 McDougals at Madison?

8 A Not that I recall. I just don't recall at
9 all.

10 Q Did you have any contact with anyone by the
11 name of Davis Fitzhugh?

12 A You know, I don't think I ever had any
13 personal contact with him. Not that I recall now. I
14 just -- you know.

15 Q Did you sign all the leases that were
16 entered into by state building services while you
17 were director?

18 A I am sure I did, yes.

19 Q That was part of your job?

20 A That was -- yes, that was part of the job.

21 Q And you, as state building services
22 director, you were listed on every lease on the

1 signature line?

2 A Yes.

3 Q With regard to -- actually, for the record,
4 I want to identify the second lease which I just --
5 that we --

6 A Get back up close to that microphone. You
7 are fading away on me again.

8 Q I just want to identify for the record a
9 lease dated 13th day of August, 1985 which reads "by
10 which Madison Financial Corporation, lessor, leases
11 to the state of Arkansas by Arkansas State Building
12 Services for the use of Arkansas Development Finance
13 Authority, 1501 Main Street, Little Rock, Arkansas
14 72202." And it lists premises that are 1456 square
15 feet of office space, and the lease term on the top
16 is 9/20/85 to 9/19/88. The annual rent is
17 \$13,579.96. And the rate is 9.32 per square foot,
18 and it is signed in the back "for lessor, Madison
19 Financial Corporation, Davis Fitzhugh; state agency,
20 Arkansas Development Finance Authority, Wooten Epes;
21 President, state of Arkansas, Arkansas state building
22 services, Helen Herr, SBS leasing administrator, and

1 that's dated 9/20/85, and then by Paul D. Mallard,
2 9/23/85, SBS director"?

3 A Right.

4 Q Is what I just described to you the second
5 lease that was entered into between Madison and state
6 building services for -- excuse me -- for the use of
7 Arkansas Development Finance Authority?

8 A I lost you way back there. I heard a bunch
9 of papers rattling that got my attention, I guess.
10 I'm sorry, would you do that again, ask me that
11 again?

12 Q The question is whether the lease I just
13 described to you --

14 A How many square feet, 1300 square feet?

15 Q 1456.

16 A All right, okay.

17 Q And it says it's a new lease. And the
18 question is whether that's a lease for -- second
19 lease entered in by state building services for
20 Arkansas Development Finance Authority with Madison
21 Financial Corporation.

22 A Okay. And what's your question?

1 Q Whether what I just read you is consistent
2 with what your recollection was of what the second
3 lease was.

4 A You know, I really don't have any -- if it
5 is there, I am sure it was. I don't have any
6 specific recollection of it. And I am assuming what
7 this was, is Mr. Epes requested additional space from
8 Madison for his additional personnel that he was
9 adding to his staff. And that was very common for
10 all agencies to do.

11 Q When we first began the deposition, I asked
12 you what leases you were aware of that were entered
13 into with Madison Financial.

14 A Okay.

15 Q You also stated that there was a -- other
16 than the AHDA and ADFA leases --

17 A I am getting to where I can't understand
18 you again.

19 Q Other than the AHDA and ADFA leases --

20 A Yes.

21 Q -- you stated there was another lease that
22 was entered into?

1 A I stated that there was?

2 Q I believe so. Let me check my notes.

3 A Or did you ask me about another lease and I
4 said something? I don't know. Back where we
5 started -- it was 15 years ago.

6 Q Do you recall there was another lease that
7 was entered into with Madison Financial?

8 A I think you just read another lease that we
9 entered into.

10 Q Other than the AHDA and ADFA leases?

11 A Well, you know, I just can't -- I don't
12 know. You got me confused now. I am not sure what
13 you are asking me.

14 Q Okay.

15 A Tell me what it is and maybe that will
16 shake my memory.

17 Q Was there another lease entered into for
18 the revenue department and department of finance and
19 administration?

20 A Yes, I think there was, yes. For the
21 revenue department?

22 Q Yes, sir.

1 A Yes, I think I can remember seeing that
2 lease in this packet of stuff I've got here.

3 Q Okay. And do you recall how that came
4 about?

5 A You know, I really can't. I can't remember
6 anything about that lease at all. I am assuming --
7 let me tell you again that I am assuming that the
8 revenue department contacted someone at our agency,
9 whoever their -- I don't know who was taking care of
10 revenue, seems like Morris Patterson took care of
11 revenue.

12 And they went there -- where the revenue
13 had already found the location and contacted Morris
14 or whatever the deal was. But I don't remember
15 anything about that lease.

16 Q Did you have any involvement in negotiating
17 that lease?

18 A No.

19 Q Why was that?

20 A Well, I didn't have involvement in
21 negotiating every lease. If I did, I would have had
22 to be 10 people. Negotiating is something like 12-,

1 maybe 1500 of those things a year.

2 Q You said generally when you negotiated a
3 lease, it was one that involved --

4 A That somebody was complaining or something
5 else. And when I first went there -- now the first
6 year that I was there, year and a half I was there, I
7 tried to enter into everything. And then after a
8 while you understand, you realize that you can't.

9 Q Bear with me. I am going through
10 documents.

11 A I'm sorry to be so short with you, but I
12 get frustrated.

13 MR. PORTNOY: We would rather you stop us
14 rather than answer a question you haven't heard.

15 THE WITNESS: I am not really sure I have
16 heard all the questions you asked me. I hope you
17 have.

18 BY MR. O'CALLAGHAN:

19 Q Mr. Mallard, I don't think I've asked this
20 question, but it is on a similar line that we talked
21 about earlier.

22 Are you aware of a meeting that occurred

70

1 with Mr. Epes and a gentleman by the name of Morton
2 Hardwicke and the governor in March or April of 1984?

3 A I think you asked that once before. And as
4 I recall, I am not -- I can't recall anyone telling
5 me or me remembering Wooten Epes meeting with the
6 governor, you know, at all.

7 Q Have you had --

8 A No one told me about it -- I will put it
9 that way -- that I can recall.

10 Q Have you had any discussions with anyone at
11 the White House with regard to these leases?

12 A Well, you know, no, not specific. Of
13 course I've -- you know, I don't talk to too many
14 there on the staff at all anymore, so --

15 Q But have you ever had discussions with
16 regard to these leases with anyone over there?

17 A Not that I can recall. You know, I could
18 have, in passing and when I called somebody or
19 something, and maybe not leases but Whitewater or
20 whatever, you know.

21 Q Just so we are clear on the record, I was
22 asking specifically about when people who were

1 actually working at the White House at the time you
2 spoke to them.

3 A The only person I have spoken to in the
4 White House, I have spoke to Bob Nash.

5 Q When did you speak to him?

6 A Gosh, I don't know. You know, I can't -- I
7 can't tell you specifically. I have a number of
8 times since they have been there.

9 Q Any discussions with regard to these
10 leases?

11 A No, I don't think so. We talk in general.

12 Q Was it a call you made to him or did he
13 call you?

14 A I called him. I think I initiated all the
15 calls.

16 Q Just so I am clear, sir, it is your
17 testimony you didn't discuss --

18 A Go back to the start again.

19 Q Just so we are clear, is it your testimony
20 you didn't speak with anyone at the White House with
21 regard to these leases?

22 A You know, gosh, I don't think so. Not that

1 I recall.

2 Q Did Betsey Wright ever act as a liaison
3 with your agency?

4 A No.

5 Q Do you know if she had any contact with
6 Ms. Vowell?

7 A Well, now, I don't know that. Not to my
8 knowledge.

9 Q Do you recall having a conversation with
10 Ms. Vowell before you received the rejection by
11 Mr. Epes, telling her that you had made a decision to
12 go with the Madison proposal?

13 A You know, I don't specifically remember a
14 conversation of that type. It probably did occur at
15 some time during that time frame before the lease was
16 made.

17 Q And at any time during any conversations
18 you had with Ms. Vowell with regard to leasing
19 Madison space, did you discuss either -- did you
20 discuss your relationship with the McDougals?

21 A You know, I don't know. I can't recall it
22 if I did. And I could have, you know. I have known

1 Jim McDougal a long, long time.
2 Q Did you ever discuss the Clintons'
3 relationship with the McDougals?
4 A Not that I recall, no.
5 Q And again, that's in relation to leasing
6 Madison space?
7 A Beg your pardon?
8 Q I was putting it in a frame of reference,
9 saying that was in relation to leasing Madison
10 space.
11 A No, I don't recall ever discussing that.
12 MR. O'CALLAGHAN: I have no further
13 questions at this time. Mr. Portnoy is now probably
14 going to ask you a couple of questions.
15 THE WITNESS: Mr. Who?
16 MR. O'CALLAGHAN: Jim Portnoy, who is with
17 the Minority. He is going to introduce himself and I
18 may have some questions after that, and hopefully we
19 will be able to go home for Valentine's Day.
20 THE WITNESS: I think that's real good.
21 MR. PORTNOY: I think this will be short,
22 Mr. Mallard.

1 EXAMINATION
2 BY MR. PORTNOY:
3 Q Good evening, sir. My name is Jim
4 Portnoy. I am counsel for the Minority and I have
5 relatively few questions this evening.
6 Sir, when an agency needed space, did you
7 typically solicit proposals?
8 A In a lot of cases, yes. In most cases we
9 did.
10 Q Did you also typically receive unsolicited
11 proposals?
12 A Oh, yes, yes, all the time.
13 Q That was common?
14 A Common. Common.
15 Q When someone had space to lease, would they
16 commonly try to meet with you to promote their space?
17 A Well, in a lot of cases, yes, they would.
18 Of course, I didn't have time to meet with everybody,
19 but I did all that I could.
20 Q So that was common as well, sir?
21 A Oh, yes, I met with several people, who
22 would come in and -- with new proposals, and with new

1 building space that they just completed, that was --
2 have it available for the state to lease from them.

3 Q So was there anything unusual about the
4 fact that Madison submitted a proposal to rent space
5 to AHDA?

6 A Was there anything unusual about it?

7 Q Yes, sir.

8 A Was that your question?

9 Q Yes, sir.

10 A Well, I don't think so. Other than
11 Mr. McDougal called me personally, because he knew me
12 personally and he knew I was director of state
13 building services.

14 Q Did Mr. McDougal ask you to do anything
15 irregular or improper?

16 A No, not that I recall. Nothing.

17 Q He just asked you to consider his space?

18 A He wanted his space considered, and he
19 presented us with -- the Quapaw Area Council, which
20 was in this area there, these were people trying to
21 renovate this area. They called us with the request
22 that we lease from him. I think the mansion

1 commission called us that was in close to the
2 governor's mansion and there were several other
3 organizations that encouraged us to rent this
4 building because they was trying to renovate that
5 part of town.

6 Q Well, sir, did I understand you to say that
7 you were getting calls from people, other than
8 representatives of Madison and other than
9 representatives of state government, who were urging
10 you --

11 A That was encouraging us to, right, to rent
12 the building.

13 Q Could you identify those entities again,
14 please, sir?

15 A Well, now the Quapaw Area Council was a
16 group of homeowners that was renovating old homes in
17 that area. And they were -- they were the real, real
18 strong group at that time. We had the Capital Zoning
19 Commission at that time. They, of course, controlled
20 everything around the governor's mansion and I think
21 they called.

22 Q Were these groups that had any financial

1 interest in your choice?

2 A Oh, absolutely no financial, other than
3 just building up their area.

4 Q Would you describe them as civic
5 improvement?

6 A That was exactly what they was, civic
7 improvement. And, of course, the Capital Zoning
8 Commission controls everything within 10 blocks of
9 the governor's mansion there. I am assuming, and I
10 am sure they had to get approval from them before
11 they would let him ever renovate the building.

12 Q Is that how you think the improvement
13 society found out about the attempt to put a state
14 office in the building?

15 A I am sure they did. Yes, I am sure they
16 encouraged any kind of new renovation or construction
17 in that area. It had been a bad area at one time,
18 just like all of downtown Little Rock was fast
19 becoming, and we was encouraged by our council, state
20 building service council and all of the downtown real
21 estate community to lease all those buildings we
22 could lease. And we tried, every time we made a

1 lease, we tried to -- we tried to lease from downtown
2 areas. Of course, it was cheaper, too. The rent was
3 a lot cheaper.

4 Q Sir, you just stated that people with
5 lease -- with space to lease would commonly try to
6 meet with either you or your staff, and come in and
7 make a pitch?

8 A Well -- now what was your name again?

9 Q My name is Jim Portnoy.

10 A Jim, in '83 and '84 I was brand new at the
11 job. Everybody that come in wanted to meet me, that
12 was just the deal. In most cases, our lease
13 department took care of all of it. And if somebody
14 called, complained or something, then I would get in
15 on it.

16 But the first two or three years -- first
17 two years I was there anyway, it was a lot of -- you
18 know, it was just good business to make a courtesy
19 call and tell people what you got available. And
20 that's what the real estate community in Little Rock
21 was doing.

22 Q So a fair number of people came in to visit

1 you?

2 A Well, I can't remember specifics, but I am
3 sure they did, you know. I was there 10, 12 hours
4 every day.

5 Q So you didn't see anything unusual about
6 Mrs. McDougal coming in to meet with you to talk
7 about space that Madison had available?

8 A Well, not -- no, you know, I had other
9 people that would come in and visit with me, while
10 they was visiting with the other -- or doing business
11 with the other staff.

12 Q You indicated that one of the factors that
13 led you to select the Madison building for AHDA was
14 that you were trying to locate offices in downtown
15 Little Rock.

16 A Well -- have you got any more to the
17 question?

18 Q I've actually got a question to follow the
19 statement.

20 A Well, you sound like you just paused and
21 had something else there.

22 Q I do, sir.

1 The question is whether that was an
2 official policy of either your agency or the state?

3 A It was an official policy of and it was a
4 set policy when I come on board as director, that we
5 try to lease any of the space in the downtown
6 buildings that we could. And that had been concurred
7 with by a state building service council, which
8 council that I served under. I guess that's the way
9 you would put it.

10 We had a state building service council and
11 they encouraged us to lease downtown because downtown
12 was losing, just like every downtown was losing, all
13 their business, retail business and everything else.
14 We had a lot of vacant buildings.

15 Q So your governing council instructed you to
16 put state offices downtown?

17 A I wouldn't say "instructed." I would say
18 that was their policy.

19 Q Encouraged you?

20 A Encouraged us, right.

21 Q Was this a policy that you followed for
22 other agencies?

1 A Well, yes, we done that with -- we put
2 everybody downtown we could. I think they still are
3 carrying it on today.

4 Q Where was the 1501 Main Street building in
5 relation to downtown; could you describe that for us?

6 A Well, you have got -- it is right south of
7 Interstate 30, and they usually call the downtown the
8 area from the interstate area north, at that time.

9 Now --

10 Q This was fairly near the governor's mansion
11 you said?

12 A Yes, it was within the governor's mansion,
13 the -- the Capital Zoning Commission's jurisdiction,
14 which covered 10 blocks around the governor's
15 mansion.

16 Q And just to be clear, 1501 Main Street was
17 within the neighborhood that your governing council
18 had encouraged you to place --

19 A Yes, anywhere downtown.

20 Q If I could just finish, sir -- to place
21 state offices?

22 What about the 1300 Brookwood Drive

1 building, where was that relative to downtown?

2 A Well, that was west, out on Cantrell, off
3 of Cantrell Road in what I think is known as Redmond,
4 either Country Club or Golf Course area.

5 Q That's not in downtown?

6 A No, it is not in downtown. In fact, it was
7 probably three miles, four miles maybe, from
8 downtown.

9 Q So would it be fair to say that the Main
10 Street building was in the area that you were
11 encouraged to try to develop, and the Brookwood Drive
12 was not in the area that you were encouraged to
13 develop?

14 A If that was his request for -- that he
15 wanted to be downtown close to the banking industry,
16 and you know, in proportion it is a whole lot closer
17 from what I'd call Fifth and Main, that's the center
18 of downtown, than 1300 Main would be.

19 Q I think we've connected two separate
20 ideas. My question was whether it is fair to say
21 that the Main Street building was in the area that
22 your governing council had instructed you or

1 encouraged you to try and help develop, and the
2 Brookwood Drive building was in that area?

3 A That's right.

4 Q And I believe when you answered me before,
5 you were speaking about Mr. Epes's desire to place
6 his agency downtown?

7 A Downtown.

8 Q And you were indicating that the building
9 at 1501 Main Street where you placed the agency was
10 downtown, whereas the building at 1300 Brookwood
11 Drive for which the agency expressed a preference was
12 not downtown?

13 A Well, that's -- yes, that's true.

14 Q I apologize, sir, we can't show you
15 documents because this is over the telephone, but
16 some of the documents Mr. O'Callaghan showed you
17 before indicate that the Brookwood space was 5800
18 square feet?

19 A Right.

20 Q And the Madison space was 6852 square feet?

21 A Right.

22 Q Is square footage the commonly accepted way

1 to measure the amount of space in different office
2 spaces?

3 A Well, it was the common way. We have --
4 there was a standard criteria set up years ago, the
5 number of square feet that you could use for each
6 employee, I think. And they tried to stay with that
7 as much as they could. Of course, there's common
8 areas and there's other things, I think, that went
9 into it.

10 Q Would it be fair to say, assuming those
11 numbers to be correct, that the Madison space was
12 more than a thousand square feet larger than the
13 Brookwood space?

14 A You know, I wouldn't think so. I don't
15 know. It could have been now. I -- you know, where
16 in my mind I'm thinking that they already needed more
17 space than what the Brookwood, or -- am I right,
18 Brookwood Drive?

19 Q That's correct, sir.

20 A And I am not even sure about this. But I
21 think they already was needing more space, because of
22 additional personnel.

1 Q Also, sir, the materials that
2 Mr. O'Callaghan referred to referred to the fact that
3 the Brookwood space was offered at 8.60 a square foot
4 and the Madison space was offered at 8.50 per square
5 foot. Is price per square foot the standard way to
6 compare prices for different spaces?

7 A Well, in most cases.

8 Q Would it be fair to say that the Madison
9 space was less expensive than the Brookwood space?

10 A Well, on a square footage basis. That was
11 not always the criteria. Sometimes we would go a
12 dollar or \$2 a square foot higher on one space than
13 to another.

14 Q You might have reason to rent a -- sir, I
15 apologize, but we had a confusion with the
16 stenographer and I will repeat my last question. You
17 said you might have reason to rent a space that was
18 not the cheapest?

19 A Oh, yes, we've done that a lot of times.

20 Q But it would be fair to say that, at least
21 on a square footage basis, the Madison space was less
22 expensive than the Brookwood space?

1 A Right. The price you quoted me, that's
2 what you quoted me off the leases; right? But I
3 imagine in this -- probably, I don't know how many
4 proposals we got on this thing, but usually we would
5 get anywhere from 15, 18, sometimes 20. I wouldn't
6 doubt if there was not some proposals in there that
7 were maybe \$3 a square foot, but you wouldn't want
8 anybody to be in the space that they was offering,
9 you know.

10 MR. PORTNOY: Mr. Mallard, I apologize, but
11 we've got to send another disk off to the
12 stenographer's office and we need to go off the
13 record for a moment. We will be just a second, sir.

14 THE WITNESS: All right.

15 (Discussion off the record.)

16 BY MR. PORTNOY:

17 Q Mr. Mallard, Governor Clinton never
18 directed you to lease space from Madison Guaranty,
19 did he, sir?

20 A Not from Madison or anyone else.

21 Q He never tried to pressure you to lease
22 space from Madison Guaranty, did he, sir?

1 A No.

2 Q Did anyone acting on behalf of the governor
3 ever try to influence you to lease space from Madison
4 Guaranty?

5 A No.

6 Q So the decision to lease space from Madison
7 Guaranty was entirely your own?

8 A It was my own.

9 Q Sir, we have had testimony that you decided
10 to lease space for AHDA at Madison Guaranty because
11 the McDougals were friends of the governors; is that
12 true, sir?

13 A No.

14 Q Did you ever lease space because the lessor
15 was a friend of the governor's?

16 A No.

17 Q Sir, we have also heard allegations that
18 Governor Clinton tried to steer the AHDA lease to
19 Madison Guaranty because Jim McDougal raised campaign
20 funds. Do you have any reason whatsoever to believe
21 that those allegations are true?

22 A No, I do not.

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1 Q You were the last word on leasing
2 decisions, unless they were countermanded by the
3 governor; is that correct, sir?

4 A Well, you know, I don't -- gosh, I never
5 even thought of it that way, I guess. I served at
6 the pleasure of the governor. If I didn't want to
7 make a lease, he could fire me, and then put his own
8 man in there, woman in there, and maybe do it. I
9 don't know.

10 Q But nobody could overturn your decision?

11 A Right.

12 Q So if someone intended to influence the
13 leasing process, they would have to do it by going
14 through you, wouldn't they, sir?

15 A Right.

16 Q And nobody ever tried to influence you in
17 an improper way?

18 A Oh, no, no, not -- other than the
19 general -- you would have legislators that would call
20 and senators that would call you, and they would have
21 friends in these outlying counties and outlying
22 towns. They would have a friend that was going to

1 make a proposal, and they -- but I never -- that just
2 didn't influence me.

3 Q Sir, to be specific to the AHDA lease from
4 Madison Guaranty, nobody ever tried to influence you
5 in an improper way, did they, sir?

6 A No.

7 Q Would it be fair to say that no one
8 exercised any improper influence at all with respect
9 to the Madison Guaranty lease, as far as you know?

10 A I had no pressure at all.

11 Q Lastly, sir, you testified that you've
12 spoken with Mr. Nash on a few occasions since he came
13 to the White House.

14 A Right.

15 Q Did Mr. Nash ever try to influence your
16 recollection or get you to change your testimony
17 regarding these events in any way?

18 A No.

19 Q No one else tried to influence your
20 testimony?

21 A No.

22 MR. PORTNOY: Thank you, sir. That's all I

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1 have.

2 MR. O'CALLAGHAN: Mr. Mallard, I have just
3 a couple of follow-up questions. It shouldn't take
4 very long.

5 THE WITNESS: Your name is?

6 MR. O'CALLAGHAN: Michael O'Callaghan, or
7 Mike, either one.

8 THE WITNESS: Mike, okay.

9 EXAMINATION

10 BY MR. O'CALLAGHAN:

11 Q You stated earlier that you commonly met
12 with folks who were trying to promote their own space
13 for leasing?

14 A Well, that was a common thing, when
15 somebody would have new space available, to come by
16 the office. And especially the first year or two I
17 was there, it was, you know, pay a courtesy call and
18 tell us what they had available. And you know, it's
19 a typical business deal.

20 Q With regard to the AHDA lease --

21 A Right.

22 Q -- did you meet with anyone who was making

1 proposals, other than the McDougals?

2 A Oh, I think so. Probably. I probably met
3 with most of the people that -- that made the
4 proposals. I can't specifically recall it. But that
5 first year that I was there, almost everybody that
6 come by the leasing office, and to visit with
7 Ms. Herr, she brought them in to me to meet me and
8 visit. It was a common practice.

9 Q If you had met these people, they would
0 have been brought to the office by Ms. Herr?

1 A Well, more than likely they would drop in,
2 and, you know --

3 Q See her first?

4 A -- bring a lease proposal to her and she
5 would bring them in to meet me. And it was the same
6 way through the architectural department, the
7 construction department, and it was just because I
8 was the new man there.

9 Q Were there other spaces being considered
0 downtown for the AHDA lease?

1 A I am sure there was. I am not -- not
2 specifically, I don't know. But I want to say

1 probably the majority of the -- probably the majority
2 of the proposals was from somewhere in the downtown
3 area.

4 Q So, the Brookwood Drive proposal probably
5 is one of the few ones that was outside the downtown
6 area?

7 A I would probably say. It may have been --
8 usually we get some from North Little Rock which was
9 a different city, you know. North of -- north of the
0 river, sometimes we get some from there, and then we
1 get some from out in West Little Rock usually.

2 But usually the majority of our proposals
3 come from downtown, because all the real estate
4 people knew that was where we was trying to go.

5 Q And did Mr. Epes have a building he
6 preferred downtown other than Madison?

7 A You know, I don't -- I can't recall if he
8 did.

9 Q During the time period 1983 through 1984 --
0 excuse me, 1985, who was the chair of the Capital
1 Zoning Commission? Do you recall who that was?

2 A I can see his face, but -- Kirby Smith. I

1 think Kirby Smith.

2 Q Kirby Smith?

3 A I think that's who it was.

4 Q Is that a position that's appointed by the
5 governor?

6 A You know, I don't know.

7 Q Is it a state commission?

8 A State commission, yes, it would be, yes.

9 MR. O'CALLAGHAN: I have no further
10 questions for you at this time.

11 MR. PORTNOY: Thank up, sir. We appreciate
12 your cooperation.

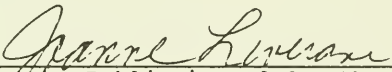
13 (Whereupon, at 5:45 p.m., the deposition
14 was concluded.)
15
16

17 PAUL MALLARD
18
19
20
21
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

**DEPOSITION OF FRANK B. BURGE
IN RE: S. RES. 120**

THURSDAY, FEBRUARY 15, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of FRANK B. BURGE, called for examination pursuant to notice of deposition, at 3:25 p.m. in Room G-59 of the Dirksen Senate Office Building, before GARY S. HOWARD, a Notary Public within and for the District of Columbia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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P R O C E E D I N G S

MR. GICALE: Should we put on the record
that he consents to being sworn in?
Whereupon,

FRANK B. BURGE
was called as a witness and, having been first duly
sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Mr. Burge, you've indicated for the record
that you've consented to being sworn to by the
stenographer.

Is that correct?

A That is correct.

Q Could you please state your name for the
record?

A Frank B. Burge -- B-u-r-g-e.

Q Your present business address?

A My present business address?

Q Yes.

4

A P.O. Box 248, Destin -- D-e-s-t-i-n --
Florida 32540.

Q And which bank is that?

A Destin Bank.

Q And that's your present position there?

A I am chairman and president of the bank.

Q And for the record, your business phone
number there?

A Area code 904-837-8100.

Q Now how long have you been chairman and
president of that bank?

A Since June the 1st, 1992.

Q And what did you do prior to that time?

A Prior to that, I was president and chief
executive officer of Bank of Salem -- S-a-l-e-m --
Salem, Arkansas, for ten years.

Q So '82 to '92.

A That's correct.

Q And then what did you do prior to going to
the Bank of Salem?

A I was a vice president in the commercial
lending platform with Preston State Bank --

1 P-r-e-s-t-o-n -- 8111 Preston Road, Dallas, Texas.
2 Q And how long were you at the Preston State
3 Bank?
4 A Approximately two years.
5 Q '80 to '82?
6 A Yes, somewhere, a short time. There was a
7 bank in between there for a few months.
8 Q What was that bank?
9 A That was Union Bank and Trust --
10 U-n-i-o-n -- Union Bank and Trust, Dallas, Texas.
11 Q Now when you say in between --
12 A I was there just for two months and I
13 moved over to Preston State Bank.
14 Q Okay. And where were you before the Union
15 Bank?
16 A I was at Citizens Bank and Trust Company,
17 Flippin, Arkansas.
18 Q And how long were you there?
19 A From May the 1st -- excuse me -- April the
20 1st, 1975, to September the 30th, 1980.
21 (Pause.)
22 Hello?

1 Q Yes. I'm just writing this down as you
2 speak.
3 Now, as we previously discussed, you've
4 indicated that you have copies of some records with
5 respect to loans between the bank and the McDougals
6 and Clintons. And you've indicated to Mr. Cole and
7 myself that you will provide copies of those records
8 to the Committee.
9 Is that correct?
10 A That is correct.
11 Q So that subsequent to this, we both
12 indicated to you that we have copies of records. But
13 we also requested that you supply us with these
14 copies and that we will provide you with an address
15 subsequent to this deposition.
16 Correct?
17 A Okay.
18 Q Now, Mr. Burge, did you speak to anyone
19 about the substance of your testimony today?
20 A No, sir, other than my executive vice
21 president.
22 Q At Destin Bank?

1 A At Destin Bank, yes.

2 Q And did you talk to him about what you
3 would be testifying to?

4 A He knows basically most of the pertinent
5 information pertaining to it. So we just kind of
6 talked and I basically said -- he asked me what I
7 thought was going to be the subject and I thought it
8 was probably going to be more authentication of the
9 original documents and how the loan was made.

10 Q When you say, he knows about it, what's
11 his name, first of all, and to what extent does he
12 know?

13 A His name is Ronnie Clay -- C-I-a-y -- and
14 he's executive vice president of Destin Bank.

15 Q Okay. And when you say he knows something
16 about it, is he familiar with the records that you
17 have?

18 A Oh, yes, he's familiar with the whole
19 deal. Mr. Clay joined me in 1992 at this bank. He
20 was formerly for 17 years a bank examiner with the
21 State of Arkansas. The last 8-1/2 years, he was
22 assistant bank commissioner.

1 MR. COLE: He probably knows Marlon
2 Jackson, then.

3 THE WITNESS: He spoke to Marlon Jackson
4 just the other day on the telephone. Mr. Jackson is
5 coming, trying to send his family down here for a
6 vacation.

7 MR. COLE: It's a small world, Lou.

8 THE WITNESS: It is in Arkansas.

9 MR. GICALE: I thought we had left
10 Arkansas.

11 (Laughter.)

12 THE WITNESS: What's that?

13 MR. GICALE: I thought we had left
14 Arkansas.

15 THE WITNESS: Well, I had. I didn't think
16 I'd ever be talking about this again.

17 BY MR. GICALE:

18 Q Okay. So Mr. Clay, to go back here, he was
19 familiar with these loans at that point?

20 How is he familiar with these loans?

21 A Well, basically, Mr. Clay probably knows
22 everybody involved in the transaction from the

1 standpoint of in his regulatory career, he's probably
2 came in contact with everybody and knows them on a
3 first-name basis.

4 Q Now he was with the state banking as
5 opposed to the state securities commission.

6 Right?

7 A That's right. Mr. Clay and I met each
8 other in 1971, when we became bank examiners for the
9 State of Arkansas.

10 Q You were a bank examiner?

11 A Also.

12 MR. COLE: Did Mr. Clay examine the
13 Citizens Bank of Flippin during the time period we're
14 interested in here, Mr. Burge?

15 THE WITNESS: He probably could have. He
16 probably could have. I don't remember the specifics.
17 He could have.

18 MR. COLE: We're getting ahead of ourself
19 here, but Mr Gicale would indulge me, I'm curious.
20 Was there ever a regulatory issue with respect to the
21 loans that we're going to be asking you about? That
22 is, the loans to the Clintons and McDougals?

10

1 THE WITNESS: Not to my knowledge.

2 MR. COLE: I just wanted to be clear on
3 that in case someone reading this came to the
4 conclusion that Mr. Clay was familiar with this
5 because of regulatory issues.

6 You're just speaking that, you're saying
7 that he's generally familiar with this because of his
8 knowing the parties and obviously, all the publicity.

9 THE WITNESS: All the publicity. He knows
10 it because of that.

11 MR. COLE: Okay. Thank you.

12 BY MR. GICALE:

13 Q Has he reviewed the documents in your
14 file? On the one hand, as Mr. Cole has indicated --
15 well, he was not at the bank and you've indicated
16 that this particular loan was not in question.

17 How is it that he would be familiar with
18 the papers in your file?

19 A Because I showed them to him. And after I
20 had my testimony at the grand jury, I happened to
21 bring copies of them back and showed Mr. Clay.

22 Q You show Clay the documents or copies of

1 your testimony?

2 A The copies of the documents that I
3 received.

4 Q Okay. Now when you say he knows everybody,
5 does he have a relationship with the Clintons and
6 McDougals?

7 A No, he does not have a relationship with
8 the Clintons and he does not have a relationship with
9 the McDougals.

10 Q And the conversation he had the other day
11 with Mr. Jackson, was there any discussion about this
12 issue?

13 A I think Mr. Jackson basically told Mr.
14 Clay that he had testified and that's what brought
15 the situation up with Mr. Clay, when he asked me if I
16 was going to be -- I had been contacted and I
17 basically said, yes, I have. As a matter of fact, I
18 think Thursday I'm supposed to give my deposition
19 over the telephone.

20 Q Okay. Mr. Burge, this deposition is being
21 conducted pursuant to Senate Resolution 120. The
22 resolution establishes a Special Committee

1 administered by the Banking Committee to conduct an
2 investigation involving Whitewater Development
3 Corporation, Madison Guaranty Savings and Loan
4 Association, Capital Management Services, Inc., the
5 Arkansas Development Finance Authority, and other
6 related matters.

7 Section 1-B-3(a) and (b) of Senate
8 Resolution 120 authorizes investigation and public
9 hearings into, A, the operation, solvency and
10 regulation of Madison Guaranty Savings and Loan
11 Association and any subsidiary, affiliate or other
12 entity owned or controlled by Madison Guaranty
13 Savings and Loan Association, the activities,
14 investments, and tax liability of Whitewater
15 Development Corporation, and as related to Whitewater
16 Development Corporation of its officers, directors
17 and shareholders.

18 This will be the focus of today's
19 deposition. You were requested to testify last week.
20 This deposition is being taken in advance of a public
21 hearings. The hearings are currently ongoing. It's
22 possible that you could testify at such a hearing.

1 We are asking you a series of questions.
2 You are testifying under oath. If you don't
3 understand a question, please let us know.

4 The stenographer is preparing a record of
5 the questions and answers. The deposition will be
6 treated as Committee Confidential until the
7 commencement of the hearings.

8 Prior to the hearings, you will receive a
9 letter from the Committee telling you that you may
10 come to the Senate to review the transcript of your
11 deposition and make note of any corrections for
12 transcription on an errata sheet.

13 I note that this is a phone deposition and
14 if you would like, the Committee can make
15 arrangements to have you review that deposition other
16 than in Washington to make such corrections.

17 A Okay. Am I to understand that my
18 deposition, the information that we talk about, and
19 this deposition is confidential and is not to be
20 distributed to anyone?

21 Q Yes.

22 MR. COLE: Although, Mr. Burge, it's kept

1 confidential until and if it could be used at a
2 committee hearing, the public hearings that are being
3 held by the Senate Whitewater Committee. And it's
4 certainly possible that some portions of it could be
5 read at one of the hearings.

6 And it's even possible, and it has
7 happened in some cases that the Chairman has made
8 public entire transcripts of testimony that people
9 have provided in depositions.

10 So I didn't want you to misunderstand that
11 there was any assurance of confidentiality now and
12 forever with respect to this testimony.

13 THE WITNESS: Okay.

14 MR. GICALE: That's correct. It's
15 confidential for the time being, but that does not
16 preclude the Committee from having it presented at
17 the hearings.

18 MR. COLE: It would only be made public in
19 connection with these hearings. Likely -- all the
20 records of this investigation will likely be made
21 public at the conclusion of these hearings.

22 So, in fact, while it's confidential now,

1 it almost certainly will be made public at a later
2 time.

3 THE WITNESS: Okay.

4 MR. GICALE: If you're called to testify
5 at a public hearing, you'll be permitted to have a
6 copy of your deposition transcript four days in
7 advance of your testimony.

8 You may be represented by counsel. I note
9 that you are appearing without counsel today.

10 BY MR. GICALE:

11 Q Correct?

12 A That is correct.

13 Q Objections to the form of questions will
14 be noted for the record and counsel in these
15 proceedings can object on the grounds of privilege or
16 relevance and the Committee Chairman may rule on
17 objections where a witness refuses to answer a
18 question.

19 Do you have any questions at this point?

20 A I do not.

21 Q Okay.

22 MR. COLE: Also, normally, Mr. Burge, what

16

1 we do in these depositions is that Mr. Gicale, who is
2 counsel for the Majority in the Committee, will go
3 forward and ask you questions. And then when he
4 concludes, I, and I'm counsel for the Minority, have
5 an opportunity to question you.

6 I suspect, if Mr. Gicale will permit me to
7 do so just to be as efficient as possible today, we
8 may look at a document, ask you some questions about
9 it, he may ask you questions and then I may. But if
10 at any time it becomes a problem for you to have two
11 people basically asking you questions at the same
12 time, do let us know and we'll try to work out
13 another procedure.

14 THE WITNESS: I will.

15 BY MR. GICALE:

16 Q Okay. Before we get to the loans, another
17 question about Marlon Jackson.

18 Other than the fact that he indicated that
19 he had been asked to testify or give testimony, did
20 he indicate what he had been asked or get into the
21 substance of what he testified to?

22 A No, not to my knowledge.

1 Q Have you talked to anybody else who has
2 testified?

3 A I talked to basically Chris Wade about --
4 I think it was Monday or Friday. Mr. Wade was wanting
5 to buy a boat down here and asked me if I would give
6 him the name of a boat broker. And I provided that to
7 him.

8 I've known Mr. Wade ever since we went to
9 college together.

10 Q Did you talk about your testimony?

11 A No, I did not talk about my testimony.

12 Q Have you talked to anybody else about
13 their testimony or this matter or this case?

14 A No. No. To be quite candid, gentlemen, I
15 have been somewhat embarrassed about being associated
16 with the contents of everything that's transpired. It
17 has been a very closely guarded secret to my local
18 constituents.

19 Q Okay. All right. Why don't you tell us in
20 a general sense without referring to -- you can refer
21 to the records if you like, but in a general sense,
22 what you recall about the \$182,611 loan, Citizens

18

1 Bank of Flippin, Arkansas, made on August 2nd, 1978,
2 to the McDougals and the Clintons, that was secured
3 by 230.24 acres of land in Marion County?

4 MR. COLE: And Mr. Burge, before you
5 answer, and I don't mean to interrupt Mr. Gicale, but
6 it would be helpful for me, if you know anything
7 prior to that time pertaining to the actual sale of
8 the property that was the subject of the loan, you
9 could start at the very beginning, I think.

10 You needn't interpret that question as
11 beginning with the loan if you had involvement or
12 knowledge prior to that time.

13 Would you agree to that, Mr. Gicale?

14 MR. GICALE: Yes. If you had prior
15 dealings -- actually, you can go before the
16 acquisition of the property. If you had dealt with
17 the parties prior to this, both of the parties, I
18 guess I'd like to know about that as well.

19 THE WITNESS: Well, let me start by saying
20 that my involvement with the McDougal/Clinton loan
21 was basically was with Mr. McDougal prior to that
22 transaction.

1 Mr. McDougal had borrowed money from the
2 bank on occasion. It could have been once or twice
3 when he was partners with Mr. Wade on one, if my
4 memory serves me properly. The loan was paid as
5 agreed, if I remember correctly.

6 MR. COLE: Do you recall where the
7 property was, if property was involved in the
8 transactions that Mr. McDougal had with Mr. Wade that
9 your bank loaned money on?

10 THE WITNESS: If I'm not mistaken, it was
11 up on what they refer to was Highway 14 north. And
12 that is north of Yellville.

13 I think that they did -- they had bought
14 some land and basically subdivided it and sold it, if
15 I'm not mistaken.

16 BY MR. GICALE:

17 Q Do you recall what years this was?

18 A It could have been prior to -- it may have
19 been '77. It could have been '76.

20 The timeframe is -- that's when I first
21 saw Mr. Jim McDougal.

22 Q But, in any event, it was prior to '78,

1 when they obtained this mortgage from the bank.

2 A Yes, that's correct. After that time,
3 sometime in --

4 Q Well, before you get to that, did Wade
5 introduce you to McDougal because of your
6 relationship to Wade?

7 Is that how this came about?

8 A Mr. Wade, Chris Wade, was a board member
9 of Citizens Bank and Trust. He was one of the --
10 Citizens Bank and Trust, just to give you a brief
11 history on that bank, that bank began its business on
12 July the 23rd, 1973, as a newly chartered bank. And
13 Mr. Wade was one of the organizers of the bank.

14 Mr. Wade was in the real estate business,
15 as everyone knows in Flippin, Arkansas. And
16 basically, as a director and also as a realtor, would
17 bring numerous clients to the bank when they would
18 sell them land or they wanted to buy land and the
19 bank would review the loan request and either approve
20 the loan or work out some type of arrangement for Mr.
21 Wade to act as an escrow agent if it was owner
22 financing.

1 Q All right. So that in this instance, then,
2 it was Wade that brought McDougal to you and the
3 bank?

4 A For the Whitewater loan?

5 Q No, before that.

6 A Before that? Yes. Mr. Wade, I'm almost
7 positive, brought Mr. McDougal to the bank.

8 Q And at the time that Wade first brought
9 McDougal to the bank, what was your title and what
10 were your responsibilities?

11 A I was senior vice president of the bank.
12 And again, if you'll allow me a little indulgence
13 here, we were just a new bank and we were very, very
14 small. Probably no more than -- if you can believe
15 this, we may have been \$5 to \$7 million in size.

16 Very, very small. Very small.

17 Most of our loans were very, very small
18 real estate loans and housing loans and personal
19 vehicle loans. And that's all we basically did. We
20 didn't really do too much commercial lending.

21 Q What was the average housing loan, for
22 instance, back then?

22

1 A Back then you could build probably a
2 three-bedroom home, two bath, for \$25,000 to \$30,000,
3 in that area.

4 Q And so would most of your loans be in that
5 range, \$25,000 to \$30,000?

6 A For the most part, they would be in that
7 range, \$25,000, \$30,000, \$35,000.

8 Q Okay. Go ahead. I interrupted you.

9 A Well, sometime after that, Mr. James
10 Patterson -- Mr. Patterson was president of the bank
11 and he was also on the board of directors, which I
12 was also on the board of directors. Mr. Patterson
13 had basically told me that there was a transaction, a
14 real estate transaction that in all probability was
15 going to be completed in which he and some other
16 partners were going to buy a large tract of land down
17 in southern Marion County.

18 Everybody referred to the land as the Old
19 Ranchettes.

20 Q Old what?

21 A The Old Ranchettes. It used to be called
22 the Ranchette properties.

1 Q How do you spell the last word?

2 A R-a-n-c-h-e-t-t-e. Ranchette was a large
3 parcel of real estate, approximately 5000 acres, that
4 a corporation who had borrowed the money was going to
5 develop into housing and turn it into like a
6 retirement community.

7 The company filed bankruptcy and went into
8 receivership and the property was owned by a federal
9 bankruptcy court in Oklahoma.

10 The property had laid dormant for quite
11 some time. It was just what I refer to as a little
12 open property, that being a little bit of a
13 pastureland and timber, along with the White River
14 frontage.

15 Mr. Patterson was a banker who basically
16 provided some of his income on the outside of the
17 bank by doing real estate investments. He utilized a
18 group to acquire this property.

19 Through Mr. Patterson and Mr. Wade, that
20 is how Mr. McDougal and his spouse and Mr. Clinton
21 and his spouse came to acquire the property.

22 Q Do you know who was part of the group

1 along with Mr. Patterson?

2 A Oh, yes. It was Mr. Patterson, a guy by
3 the name of Richard Wendell. Mr. Wendell owned an
4 abstract and title company in Yellville.

5 There was a gentleman by the name of
6 Kearnie Carlton. Mr. Carlton was a partner with Mr.
7 Terry Wood in a real estate agency in Flippin called
8 Pioneer Realty.

9 And there was a lady by the name of Nancy
10 Belle Watts, and Nancy was a realtor and she owned a
11 real estate company in Yellville called Silver
12 something, Silver Creek Land Company. Silver Creek
13 Land Company.

14 They were the parties that acquired the
15 property.

16 MR. COLE: I'm sorry. Was Mr. Wood one of
17 the partners or did he just happen to be a partner
18 with Mr. Carlton in another real estate company?

19 THE WITNESS: I think Mr. Wood and his
20 wife -- no, they were not part of that partnership.
21 Let me retract that.

22 He and his wife were part of the parties

1 that bought some of this property, but they weren't
2 part of the original 101 River Development Company.

3 BY MR. GICALE:

4 Q All right. Just to go over this again, it
5 was Patterson, Carlton, Watts.

6 A Yes.

7 Q Anyone else?

8 MR. COLE: Wendell.

9 THE WITNESS: Wendell.

10 BY MR. GICALE:

11 Q Wendell, right. Okay, those were the four
12 partners in this endeavor?

13 A What did I tell you? I said Patterson,
14 Watts --

15 Q Wendell and Carlton.

16 A Carlton. That's about it. There may have
17 been five. Maybe six.

18 MR. COLE: And that group was known as the
19 101 --

20 THE WITNESS: 101 River Development
21 Company.

22 MR. COLE: And did they purchase the

1 entire 5000 acres or a portion of the 5000 acres that
2 was in the bankruptcy courts?

3 THE WITNESS: They acquired a portion of
4 it. The acquisition price at which they acquired it
5 was all predicated on them reselling the property
6 prior to closing so they could have a simultaneous
7 closing.

8 If my memory serves me correctly, I think
9 the price was somewhere around a million and a half,
10 \$1.2 million, somewhere around there.

11 They had to basically have a joint
12 closing -- I mean a joint simultaneous closing of
13 other sales in order for them to acquire the
14 property.

15 MR. COLE: How much property did they
16 acquire, if you recall, out of the 5000 acres?

17 THE WITNESS: Just the 101 River
18 Development Company?

19 MR. COLE: Yes, sir.

20 THE WITNESS: I think it was -- knowing
21 that group, that was the choicest property. And it
22 was probably a couple hundred acres. If I remember

1 correctly, it was all riverfront.

2 BY MR. GICALE:

3 Q You mean this is the property that they
4 retained for themselves or the property that they
5 resold?

6 A The property that they retained for
7 themselves.

8 Q Okay. These were all simultaneous
9 transactions? They bought and sold this property,
10 with the exception of that they retained all in one
11 day or one transaction?

12 A One day. It's a one-day transaction.

13 Q So on August 2nd, '78, it wasn't just the
14 McDougals -- and by the way, was Citizens Bank of
15 Flippin involved in all the transactions or just the
16 one with the McDougals and Clintons?

17 A No. We were involved in probably -- I'm
18 going to say we were probably involved with about --
19 there were 11 parcels that were sold out, if my
20 memory is correct. I would say that we probably
21 handled seven or eight of them. We probably handled
22 more than half of them.

1 Q Seven or eight were financed by Citizens?

2 A Yes.

3 MR. COLE: And just to be sure that I'm
4 following you here, those were 11 parcels that were
5 sold by 101 River Development to various buyers.

6 THE WITNESS: That's correct.

7 MR. COLE: On the same date?

8 THE WITNESS: On the same date.

9 MR. COLE: And the parcel that the
10 Clintons and McDougals purchased was one of those 11
11 parcels that were sold on that date?

12 THE WITNESS: That is correct.

13 BY MR. GICALE:

14 Q Now was the remainder of the property, was
15 that financed through the Bank of Flippin as well, I
16 mean the parcels that weren't sold?

17 A No. If my memory serves me correctly, the
18 entire tract of land that was acquired from the
19 bankruptcy trustee, all of it was sold to other
20 buyers, third-party buyers, and only a portion of it
21 was kept by the 101 River Development people, who
22 basically came away with that property to a certain

1 extent, again, if my memory serves me correctly,
2 almost free and clear.

3 They may have had a small amount of debt
4 against that property.

5 Q So, basically, they had some agreed-on
6 price, and on the same day they sold it for something
7 more than that price and the difference basically
8 they retained in land.

9 A That's right.

10 Q Now earlier you testified that at this
11 point in time, you were a small bank. I think you
12 said \$5 to \$7 million.

13 A More or less.

14 Q More or less. And that you were mostly in
15 the business of residential loans, \$25,000 to
16 \$30,000.

17 A That's correct.

18 Q And I note that the loan to the Clintons
19 and McDougals is \$182,611, which is substantially
20 more -- well, number one, it's a commercial loan.
21 It's not residents. It's a commercial development.
22 Number two, it's substantial larger than the other

30

1 loans that you were involved in during that time
2 period.

3 Why the sudden change in terms of business
4 strategy and plans?

5 A Well, basically, the bank did not retain
6 that entire \$182,000 loan. The bank's legal lending
7 limits, which was set by Arkansas banking law, I
8 think that the bank's legal lending limit was only
9 about 90-something thousand dollars.

10 So we participated -- that is, we sold
11 upstream to a large commercial bank in Little Rock,
12 Union National Bank of Little Rock, one half of that
13 loan and probably, if my memory serves me correctly,
14 we sold about one half of all the rest of the loans
15 that were made.

16 MR. COLE: And just so we're clear before
17 we go on, Mr. Burge, the loan that was made to the
18 Clinton and the McDougals was one of seven or eight
19 that your bank made.

20 THE WITNESS: That the bank made, that is
21 correct.

22 MR. COLE: And presumably, and please

1 correct me if I'm wrong, the loan to the Clintons and
2 McDougals was made on similar terms as the other
3 seven or eight.

4 THE WITNESS: They were all made on the
5 exact same terms.

6 BY MR. GICALE:

7 Q Well, were they similar amounts?

8 A I can't remember exactly if they were all
9 in the 180, but I doubt it very seriously. They were
10 probably in the \$70,000 or \$80,000 range of loans,
11 maybe \$90,000.

12 If I'm not mistaken, I think the
13 Clinton/McDougals bought the largest piece of
14 property and paid the most for it per acre.

15 MR. COLE: Is that the only loan that you
16 had to participate upstream?

17 THE WITNESS: No. We participated -- like
18 I said, I think there was about three or four more,
19 maybe five, that we participated in.

20 MR. COLE: So even though your lending
21 limit was \$90,000, if those loans were less than
22 \$90,000, you chose to sell a portion of those?

1 THE WITNESS: A portion of those loans
2 that we sold.

3 MR. COLE: Okay.

4 BY MR. GICALE:

5 Q But that was the only one over 90 that you
6 recall, that you were required to move upstream.

7 A Yes. That was probably the only one over
8 90.

9 Q Do you know, do you recall who the other
10 people were that purchased land at this point?

11 A Well, I think the Woods, Terry and Carol
12 Wood. We financed their piece and I think we
13 participated in theirs because Terry and his wife
14 also owed us on other real estate loans. I think they
15 owed us on their home and maybe their vehicles.

16 So we sold their loan, part of their loan.

17 I would assume that Mr. Kearnie Carlton, I
18 think he bought some property on his own, I think the
19 same day with Mr. Carlton.

20 There was a pharmacist in town there by
21 the name of Gary Fancher, and I think we sold Mr.
22 Fancher's loan, if memory serves me properly.

1 Q Do you remember any others who obtained
2 loans or acquired property from this group?

3 A Again, that's the ones I basically
4 remember. And I say that it's been a long time ago,
5 and so I can't tell you how much we participated and
6 how much we retained of each one of them.

7 MR. COLE: It sounds from your
8 testimony, Mr. Burge, that all of the purchasers,
9 other than the Clintons and McDougals, were local
10 from the lending area where you did business there.

11 Is that correct?

12 THE WITNESS: The loans that we did were
13 all local people. Yes, that's correct.

14 MR. COLE: And the McDougals, did you
15 understand the McDougals/Clintons had a connection
16 with Chris Wade, who was a local realtor, is how they
17 came to be involved in this transaction?

18 THE WITNESS: That's exactly how they came
19 to be involved in this transaction.

20 BY MR. GICALE:

21 Q Well, can you explain that, to the extent
22 you know?

1 A Because I'm sure that Mr. McDougal and Mr.
2 Clinton wouldn't have known anything about this
3 transaction had Mr. Wade not contacted them and sold
4 them to them.

5 Q Okay. Now --

6 MR. COLE: And when you say Mr. Clinton
7 contacted them, do you have any knowledge as to
8 whether he indeed contacted both of them or whether
9 he dealt solely with Mr. McDougal?

10 Do you know one way or another?

11 THE WITNESS: No. I hope I didn't give
12 that impression, that Mr. Clinton didn't contact
13 anybody.

14 What I'm trying to say is that Mr. Wade
15 basically acted the part by acting as an agent for
16 the 101 River Development and contacting Mr. McDougal
17 and Mr. Clinton and offering this property for sale.

18 Now how they -- I don't know if they
19 contacted anybody else after that.

20 BY MR. GICALE:

21 Q So that we have the sequence of events,
22 first it was Patterson who came to you and said that

1 I have a group that's going to acquire this property
2 and then sell it off simultaneously.

3 That's how this started. Correct?

4 A That's how it started. That was my first
5 knowledge of this transaction.

6 Q All right. Now, the loan was August 2nd,
7 '78. How long before August 2nd, '78 did Patterson
8 tell you about this?

9 A Again, the timeframe is hazy. It could
10 have been weeks or months. I know it wasn't something
11
12 that -- atypically, when you buy something from a
13 bankruptcy court, it goes through a long, lengthy
14 process.

15 But it was relatively rapid, from the time
16 that he told me. Naturally, Mr. Patterson and I
17 weren't on the best of relations. So I'm sure that he
18 may have been working on this thing before that time
19 and felt like he didn't need to confide in me and
20 that what he was up to was on personal business.

21 Q When did Wade -- how long after Patterson
22 told you that he was involved in this did Wade become

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1 involved?

2 A Shortly after that. Shortly after that.

3 Q And how did you learn that Wade became
4 involved and that the Clintons and the McDougals
5 became involved?

6 A Well, naturally, what happened is, you
7 know, when you're a small rural bank in a rural
8 community and someone basically comes in and says
9 that we have an opportunity to make a loan to the
10 future governor and a person who is a well known
11 politico out of Washington, Mr. McDougal, he was
12 affiliated with Senator Fulbright's office, of
13 course, we looked at that, that loan stuck out and
14 pretty much made an impression.

15 Q Well, who brought that to your attention?

16 A Who brought it to my attention?

17 Q Yes. How did you -- first Pattern tells
18 you he's got this deal coming up and then you said,
19 at some point in time, Wade got involved.

20 How did you know Wade -- did Wade get
21 involved with the other purchasers as well as the
22 Clintons and McDougals?

1 A Oh, yes. I think Mr. Wade sold out most,
2 helped the 101 River Development Corporation sell
3 probably three-quarters of the land.

4 Q Okay. And would Wade come in with --

5 A The people?

6 Q With the people or would he bring the
7 paperwork to you and say, jeez, we've got this group
8 of purchasers or that group of purchasers and they'd
9 like financing from the bank, or I talked to
10 Patterson and this is what we're going to do?

11 How did that all come about?

12 MR. COLE: Just a second, Lou. Before we
13 go any further, there were a couple things that Mr.
14 Burge said that I want to make sure I understand.

15 Mr. Wade was acting as a broker for the
16 101 group?

17 THE WITNESS: That's correct.

18 MR. COLE: And so he would then earn a
19 real estate commission on each sale of property for
20 which he brought a buyer in.

21 Is that how that worked?

22 THE WITNESS: That's exactly how it works.

1 And back in those days, realtors that sold raw land,
2 and this was referred to as raw land, development
3 land, their commission was ten percent.

4 MR. COLE: So he earned -- if he brought
5 in a buyer for Mr. Patterson's group, he would earn a
6 ten-percent commission?

7 THE WITNESS: Ten-percent commission.

8 MR. COLE: And when you referred earlier
9 to someone coming in and telling you that a future
10 governor and a well-known politico from Washington
11 were looking to buy property, would that have been
12 Mr. Wade who told you that?

13 THE WITNESS: Yes.

14 MR. COLE: Okay. I'm sorry. I didn't mean
15 to interrupt, Lou.

16 BY MR. GICALE:

17 Q Well, tell me how -- the process that Wade
18 would go through in terms of bringing these things to
19 your attention.

20 A Well, basically, we were, again, a very
21 small bank. Mr. Patterson and myself, we had very
22 small, individual lending limits. That is, what we

1 could approve on our own.

2 Q What were your lending limits?

3 A I'm going to say probably somewhere in the
4 neighborhood of \$25,000 to \$30,000, maybe \$45,000.
5 Anything over that had to go to the board of
6 directors for full-board review.

7 Q And would this lending limit be -- what
8 was Patterson's lending limit?

9 A Same as mine, if I remember correctly.
10 Probably about \$30,000, \$35,000.

11 Q Well, was Patterson allowed to get
12 involved in loans like this where he was selling
13 property?

14 A Well, that's one of Mr. Patterson's
15 downfalls, is that Mr. Patterson basically -- some of
16 the things that he did smacked of insider trading --
17 insider abuse. And Mr. Patterson, in this day and
18 time, would have never been able to do what he did.

19 But since the laws exist today didn't
20 exist then --

21 Q There was no prohibition against that
22 then?

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1 A Well, Mr. Patterson was a member of an
2 investment group that owned that property. And it was
3 referred to the bank. Mr. Patterson, if my memory
4 serves me purposefully, he did not vote on that loan.

5 I think that he abstained from the voting
6 because he did have a vested interest in where the
7 loan was made because it would make him money or
8 enrich him.

9 I think that --

10 Q Well, you also said Wade was on the board.
11 Right?

12 A Wade was on the board, also.

13 MR. COLE: But let's be clear what loan
14 we're talking about here.

15 As I understood your testimony, the 101
16 River Development Group did not borrow money from the
17 bank. The borrowers for the buyers that they had
18 lined up.

19 Is that correct?

20 A That is correct. 101 River Development
21 Company may have borrowed a small, insignificant
22 amount of money because maybe of all the

1 transactions, of all the parcels, may not have been
2 enough money to fully discharge the 1.2, 1.3, or 1.4
3 million acquisition price.

4 Q I understand that. But the only way that
5 Mr. Patterson and his group gets to retain any
6 property is if they simultaneously sell this other
7 property, which has to be financed by the bank.

8 Correct?

9 A That's correct.

10 Q All right. And you earlier indicated that
11 your lending limit was \$25,000 to \$45,000, and
12 obviously, in the instance of the Clintons and
13 McDougals, that was \$182,000. And some of the other
14 loans you said were in the \$70,000s or \$80,000s.

15 So I would assume that all these loans,
16 these 11 loans -- whatever the number is -- of these
17 transactions, seven or eight.

18 MR. COLE: Seven or eight.

19 BY MR. GICALE:

20 Q Seven or eight transactions, all had to go
21 to the board.

22 Correct?

1 A That's correct.

2 Q And who was sitting on the board at that
3 point in time?

4 A I think we had a nine-member board of
5 directors. It was myself, James Patterson, Chris
6 Wade, a gentleman by the name of Jim Milligan, a
7 state senator, Veda Shedd, a Guy Alexander, who was
8 chairman of the board, Steven Sanders, who was on
9 Northern Arkansas Telephone Company, and a Peter
10 Peitz, who was a garment and apparel manufacturer.

11 Q How do you spell that last name?

12 A Peter Peitz. I haven't spelled it in a
13 long time.

14 It's P-e-i-t-z.

15 MR. COLE: And did Mr. Wade and Mr.
16 Patterson abstain from the consideration of whether
17 the bank should make these loans at the board level?

18 THE WITNESS: Mr. Wade voted, if I
19 remember. I think the only person that abstained
20 from voting was Mr. Patterson.

21 MR. COLE: And I guess the distinction
22 there would be Mr. Patterson had an ownership

1 interest here, while Mr. Wade had just a real estate
2 broker's interest.

3 THE WITNESS: Had a real estate broker's
4 interest.

5 MR. COLE: Interest in his 10 percent
6 commission.

7 THE WITNESS: That's right.

8 BY MR. GICALE:

9 Q And so Wade, Milligan, Veda Sheer -- is
10 that what you said her name was?

11 A Veda Shedd. Veda Shedd.

12 Q Okay. Guy Alexander, Steven Sanders, Peter
13 Peitz, and yourself, voted on the loans.

14 A That's correct.

15 Q Now were these all done at once or were
16 they done --

17 A They were done individually.

18 Q Individually? Okay. Now was this the
19 loan, the \$182,000 loan to the McDougals and
20 Clintons, was that one of the first or last, or do
21 you recall what sequence this one occurred?

22 A I don't recall what sequence.

1 Q Okay. And again, was it Wade who first
2 brought this particular loan to your attention?

3 A Yes.

4 Q And did he submit some documentation on
5 behalf of the McDougals and Clintons, or did he just
6 notify you orally and have you follow up with these
7 people, or how did this occur?

8 A Well, Mr. Patterson and I handled all the
9 lending in the bank and, again, we were a small bank.
10 We processed everything. We did our own loans. We
11 typed our own loans. We did our own appraisals. And
12 in this transaction, we basically would contact the
13 borrowers and ask for financial information, like we
14 always required a financial statement.

15 Sometimes, we had operating statements
16 that were profit/loss, or P&L statements, or a tax
17 return that was requested to support the borrowings.

18 Q Now, in this instance, did you obtain
19 financial information from the Clintons and the
20 McDougals?

21 A We sure did. We did it on every loan that
22 we ever made.

1 Q Do you have a record of a statement from
2 the Clintons?

3 A No, sir, I do not.

4 MR. COLE: Well, we do have records of
5 financial statements and documents indicating that
6 financial statements were provided at later times.

7 MR. GICALE: Right.

8 MR. COLE: I don't have a record of
9 financial statements or similar information being
10 provided at the time of the original loan.

11 MR. GICALE: Yes. I don't believe that
12 their financial statements were provided until
13 sometime later in '81 or '82.

14 BY MR. GICALE:

15 Q And so my question is why is it that the
16 Clintons were not required to provide financial
17 information at the inception of the loan?

18 MR. COLE: I thought he just testified
19 that they were.

20 THE WITNESS: Yes, the Clintons did
21 provide. They most certainly provided the financial
22 statement. So did Mr. McDougal.

1 MR. COLE: And that was the policy of the
2 bank, to require financial statements or similar
3 information for all loans before they were made?

4 THE WITNESS: Well, yes, and to basically
5 support that statement. This loan that we had sold
6 and the participation to a much larger bank in Little
7 Rock, Arkansas, they would have also required
8 financial statements also before they would have
9 acquired that loan.

10 BY MR. GICALE:

11 Q And have you seen these financial
12 statements since the time that you approved this
13 loan?

14 A I'm sorry, Mr. Gicale. I didn't hear what
15 you were saying.

16 Q Have you seen these financial statements
17 since the time you approved this loan?

18 A No, sir.

19 MR. COLE: But do you have a recollection
20 today, Mr. Burge, a clear recollection that financial
21 statements both were provided to your bank and were
22 provided to Union Bank when the loan was participated

1 to them at the time the transaction took place?

2 THE WITNESS: Yes, sir, I do have a clear
3 recollection of that.

4 MR. COLE: And with respect to the
5 participation that was sold to Union Bank, our
6 records indicate that Union Bank had also made a loan
7 on this property of \$20,000.

8 Do you recall that?

9 THE WITNESS: I was not apprised of that
10 \$20,000 loan until I read about it in the newspaper
11 here in the last year or two.

12 MR. GICALE: Let me follow up on that.

13 BY MR. GICALE:

14 Q Just to get back to the financial
15 information.

16 MR. COLE: Well, this is the financial. I
17 really would like to follow up on this because this
18 is the financial information. I want to ask him how
19 it could be that Union Bank, who would be buying a
20 participation in a loan, a first mortgage loan,
21 essentially, on this particular piece of property,
22 whether or not they would be aware that they also

1 made a \$20,000 loan on the property and how it would
2 be that his bank who was selling a participation
3 would not have learned from Union Bank or otherwise
4 about the \$20,000 loan.

5 I'm confused about that, if that makes
6 sense, Mr. Burge.

7 THE WITNESS: And basically, if I can, let
8 me clarify something for you.

9 I would assume, and this is just an
10 assumption on my behalf, that they had, Union
11 National Bank had probably, in all probability,
12 agreed to the participation. And the day of the
13 closing, I'm assuming that Mr. McDougal, because of
14 his excellent credit status at that point in time of
15 his life, probably walked in and saw a commercial
16 loan officer in the Little Rock office and borrowed
17 the money.

18 And it is entirely possible that the
19 correspondent department who we dealt with on the
20 selling of the participations would know one thing
21 and the transaction on the \$20,000 could occur the
22 same day or the day before, and they wouldn't have

1 known anything about it.

2 BY MR. GICALE:

3 Q Well, would you have approved this loan if
4 you knew the down payment, the Union money was
5 borrowed as well?

6 A Well, Mr. Gicale, it was a policy of our
7 bank and a sound banking and lending tenet that you
8 didn't make 100 percent loans.

9 That's not to say that I have made loans,
10 and as most bankers are with people who want to
11 acquire a piece of property, and they may go get a
12 bridge loan from another financial institution using
13 other types of collateral, be it negotiable bonds,
14 stocks, or real estate.

15 Q That's true, but that's with collateral.

16 A But that's with collateral.

17 Q Right.

18 A And there are borrowers who may, because
19 of their credit standing and their financial
20 soundness, may acquire a signature loan.

21 And in all probability, had -- and I do
22 not remember, and I will tell you if I remember -- if

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1 they would have come in and told me that, and I would
2 have heard the loan, that we're going to borrow 90
3 percent from you and we're going to get a 20 percent
4 loan over here for the down payment, I probably -- it
5 would have given me a little more --

6 Q Concern?

7 A Chance to basically think about what my
8 vote would be on that loan.

9 Let me qualify what I'm saying with one
10 other thing.

11 These people were buying these raw tracts
12 of land for one purpose only. And that was to go in
13 and subdivide it and put roads in it and survey it to
14 sell out much smaller parcels.

15 In development lending, there is a lot of
16 soft costs along with physical hard costs that are
17 associated with those things.

18 So sometimes you can have a loan that may,
19 like this loan did, it may have appeared that it was
20 100-percent financing. But they may have acquired
21 funds or utilized personal funds to pay for those
22 soft costs in the development of that property,

1 which, in essence, if you look at it in an offhanded
2 or backhanded fashion, it could have been utilized,
3 quote, unquote, as equity.

4 Q But, in any event, did they discuss the
5 use of the soft funds with you in this instance?

6 A No, sir.

7 Q And would you agree that this was not as
8 conservative as the purchase of a residence. This was
9 a more speculative venture where there was a hope of
10 selling lots at a profit.

11 Correct?

12 A You are absolutely right. The loans of
13 this nature are speculative in design.

14 MR. COLE: Mr. Burge, before we leave this
15 point, from your bank's perspective, Citizens Bank's
16 perspective, if I understand what you're saying, you
17 were making a loan of \$182,000, roughly. And the
18 other \$20,000 that was being put towards the purchase
19 price of this property was coming from another
20 source.

21 You didn't know the source, but you knew
22 the amount of the loan that you were making and your

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1 loan had a first mortgage -- we're going to show you
2 the mortgage shortly, but had a first mortgage
3 position on that property.

4 Is that correct?

5 THE WITNESS: That is correct. That was an
6 atypical lending criteria of our bank at that point
7 in time. We would finance land and real estate and
8 lots with 90 percent acquisition.

9 So that was a normal loan that we made in
10 that bank.

11 MR. GICALE: Right.

12 MR. COLE: And the fact that the \$20,000
13 was borrowed on a signature line of credit or
14 otherwise by Mr. McDougal did not affect the position
15 of your bank with respect to the safety and soundness
16 of this particular loan.

17 Is that correct?

18 THE WITNESS: That's correct.

19 BY MR. GICALE:

20 Q Well, but it might have affected your
21 decision on whether to make this loan if they were
22 borrowing 100 percent in a very speculative

1 investment.

2 Correct?

3 A Mr. Gicale, would you restate that,
4 please?

5 Q Well, if you had known that they were
6 borrowing 100 percent to finance this speculative
7 real estate deal, that may have affected your
8 decision-making in terms of awarding this loan.

9 Correct?

10 A Well, I disagree. We're talking about 18
11 years later. And if I was a young man, probably 28
12 years old at that time. I had been trained as a bank
13 examiner and I had been trained that people didn't
14 100 percent loans, unless there was some extenuating
15 circumstances surrounding that.

16 Q Was there any prohibition against 100
17 percent loans at that time?

18 A Pardon?

19 Q Was there any prohibition --

20 MR. COLE: Wait a second. This was not a
21 100 percent loan by the Bank of Flippin. It was a 90
22 percent loan by the Bank of Flippin, and the borrower

1 happened to be getting the rest of the purchase price
2 through --

3 MR. GICALE: I still need an answer to
4 that question.

5 MR. COLE: I know, but let's just be clear
6 that this is not a 100 percent loan by his bank.

7 MR. GICALE: I think the record is clear.

8 BY MR. GICALE:

9 Q Was there any prohibition against 100
10 percent loans then?

11 A No, there was not.

12 Q Okay. But it was generally not the
13 practice to lend people 100 percent because the bank
14 preferred that there be some investment equity on the
15 part of the purchaser.

16 Correct?

17 A Sound banking tenets basically said that
18 you should have equity on all real estate lending.

19 Q Okay. And what you later came to learn is
20 that Union Bank provided the down payment so that
21 this was 100 percent financed, partially by Union
22 Bank and the rest by the Citizens Bank of Flippin.

1 Correct?

2 A Well, no. And let me qualify that by
3 saying your friend, Mr. Cole -- we always had a 90-
4 percent loan. And that's what we looked at, was a 90-
5 percent loan.

6 The borrowers were not injecting any
7 equity capital into the transaction and it was all
8 borrowed.

9 Q Right.

10 A That is basically a question that most
11 bankers would have, that there was no hard equity in
12 the project.

13 Q Right. This project was 100-percent
14 financed.

15 A Well, it gets -- the way you're asking,
16 you're absolutely right. There was no equity injected
17 into the transaction.

18 Q Now who did the appraisal on the property?

19 A I did.

20 Q What did you use as a basis for the
21 appraisal?

22 A Well, you've got to realize again that we

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1 did our own loans. We didn't have appraisers back
2 then. It was a little, small country town of 500
3 people.

4 I would basically -- I made appraisals
5 based on what I knew, things that sold in the area.
6 They were all what we used to call window shield
7 appraisals.

8 On this tract of property that we had
9 here, what we used to do when we used to have
10 something like that is that we would simply take the
11 platted land, and the platted land meaning what they
12 were going to be cut up into lots or tracts -- that's
13 what we referred to back in that period of time --
14 tracts of land and they would have a sell-out value.

15 Let's say they were \$5000 per tract. And
16 I'm just talking off the top of my head. But let's
17 just say the 230 acres was going to be broken up into
18 five-acre tracts, and that was going to be basically
19 46 tracts.

20 Let's say the 46 tracts had a value of
21 \$10,000, okay? Well, \$10,000 is \$460,000, and the
22 sell-out value -- you basically, I looked at it maybe

1 as a 50-percent loan, 50 percent of the value was the
2 real -- after all of the infrastructure was put into
3 the loan, and that's basically how I arrived at the
4 value.

5 Q But, I mean, how did you get to the
6 \$10,000 per tract?

7 A Well, because that's what small tracts of
8 land -- and I said \$10,000. It could have been \$8000.
9 Just hypothetical.

10 Q Okay. But that's what adjoining parcels
11 were going for?

12 Is that it?

13 A Well, small tracts of land sell
14 differently. In that area -- now, gentlemen, that
15 land they bought, they bought that at about \$500 an
16 acre. That's what the 101 River Development bought
17 that property for, for \$500 an acre. It may have been
18 a few dollars less, maybe, and a few dollars more.

19 But that was basically what pastureland
20 was going for in Fulton County -- not Fulton County,
21 excuse me, Marion County.

22 Marion County was heavy into dairy and

1 beef operators, cow/calf operation, steer operation.
2 And pastureland was at a premium because it was a
3 real rocky terrain. So anything that was level, and
4 the topography of the land laid and had a gently
5 sloping or rolling terrain, basically fetched a
6 little higher value, which is probably around \$500 an
7 acre back then, maybe \$400.

8 If a person wanted to create some multiple
9 home sites, which is that is what Mr. Wade and Mr.
10 McDougal used to do. They used to buy property,
11 subdivide it, sell it on what they call land sale
12 contracts, which, by the way, is no different than I
13 read an article recently in Fortune magazine of what
14 Malcolm Forbes did up in Lake Of the Ozarks.

15 They buy this big tract of land. They
16 subdivide it. They sell it at inflated prices. They
17 do contracts for deed and they carry the paper. And
18 you would charge ten percent interest on the thing
19 and you make a ton of money.

20 And that's basically what their intention
21 was. That's what the loan request was.

22 Q Okay. Now, at about \$500 an acre, this was

1 230 acres.

2 A Okay.

3 Q It comes out to about --

4 MR. COLE: No. No, that's not what he
5 testified to. He said 101 River Development
6 Corporation paid \$500 an acre for the property that
7 they purchased.

8 MR. GICALE: I understand. But it was a
9 simultaneous transaction.

10 MR. COLE: But there's nothing that says
11 that they sold it for the same price they paid for
12 it.

13 MR. GICALE: I don't care what they sold
14 it for. You said that the value at that point in time
15 of that type of land was about \$500 an acre.

16 BY MR. GICALE:

17 Q Correct?

18 A Wait a second. For large tracts of land.

19 Q Okay.

20 A I also said that as you got into smaller
21 tracts of land, the value would go up.

22 So if you could go down on the river at

1 that point in time and you could buy a river lot,
2 river lots were going for about \$10,000 to \$12,000 a
3 lot. And back then in the country, lots were
4 basically half-acre lots. They were about 100 by 210,
5 220.

6 So you had half-acre lots going for about
7 \$12,000, but they were on the river.

8 Q Not all of these were on the river.

9 A Not all of these were on the river. Well,
10 basically, if my memory serves me correctly, the
11 property that was owned by the McDougals and Clintons
12 was a bluff piece of property that just barely held
13 the world together.

14 I'm not trying to be humorous, but --
15 Arkansas is not the end of the world, but if you've
16 got that spot on that piece of land, you could see it
17 from there.

18 So that's basically -- it was -- all it
19 had going for that piece of property was that it had
20 a gorgeous view. It overlooked the river. It
21 overlooked a fork of another river called the Buffalo
22 -- no, excuse me -- it's Crooked Creek. Crooked

1 Creek, which was another river, and it was beautiful.
2 And so they felt like that people
3 basically wanted to acquire these nice, large, five-
4 acre or ten-acre tracts and they would pay a premium
5 for those ten-acre tracts. They would probably pay
6 \$2000 an acre.

7 Well, \$2000 an acre times five acres,
8 \$10,000.

9 So that's what they thought they were
10 going to -- and that was not uncommon in that area at
11 that time. It was not uncommon.

12 Q Okay. But just to get back to your
13 appraisal. Some of the lots were overlooking the
14 river.

15 A Right.

16 Q Maybe about, I think, ten out of 40, or
17 something like that. And then the balance were away
18 from the river.

19 So how did you value them? How did you
20 value the parcel?

21 A You know, again, what I did, and again, I
22 did a basically, what we call an old country banker

1 appraisal, okay?

2 I added up the total actual sales price of
3 all of those lots, okay? And basically, I probably
4 took a 50 percent or 40 percent of that as what they
5 call the sell-out value.

6 Now, there was another value attached to
7 that property. The value was the acquisition cost.
8 That was a value because, atypically, when you buy
9 something, you set one set of values.

10 So the land had a raw value, being the
11 tract purchase of the acquisition price, which was
12 \$200,000. The land then has another value and that
13 value is the subdivided value, the value of these
14 tracts, these five-acre or 2-1/2-acre or ten-acre
15 tracts.

16 That's another value all by itself.

17 Once you go in there and you put a road
18 in, and again, let me qualify this by saying it's not
19 a paved road. It is a dirt and gravel road. And you
20 surveyed it in the tracts.

21 This is basically what people wanted.
22 People can't afford -- lots of people who were buying

1 that type of property could not afford to own a farm
2 for \$200,000 or \$150,000. But they could afford to
3 buy five or ten acres for \$5000 or \$10,000 or
4 \$15,000. And that was the market that they were going
5 for because that's what everybody was doing in -- I
6 said everybody. That is what a lot of shrewd
7 investors were doing in that county back during that
8 time.

9 Q I understand. All right. You first looked
10 at -- you determined value by looking at the amount
11 of money they paid for it, the acquisition costs?

12 A The acquisition -- yes.

13 Q And that was \$200,000 in this instance,
14 roughly.

15 A Okay.

16 Q Right?

17 A Right.

18 Q Okay. And so, and then you looked at what
19 it would be worth if they invested some money and put
20 in some road.

21 A That's right.

22 Q And what value did you come out with

1 there?

2 A You know, what I've got, the piece of
3 paper I'm sitting looking at right now, is the
4 estimated value of collateral and the certificate of
5 participation. I put down \$242,000.

6 So what I probably did, and gentlemen,
7 again, this is 18 years later, what I probably did is
8 I took the sell-out value of the tracts of property --
9 if you'll go through there and if you get your hands
10 on one of those old plats that showed what each tract
11 of land was worth, what they were going to ask for
12 it.

13 Q Wait. What these people were going to ask
14 for it, the McDougals and Clintons?

15 A What the McDougals and Clintons were going
16 to ask for it. You would probably come up with a
17 number that -- I don't know. Let's just say it's
18 \$320,000. Let's say it's \$400,000. I have no earthly
19 idea.

20 But I'm just saying suppose that. I
21 probably took a value and multiplied a percentile,
22 which, you know, conservative bankers usually make

1 conservative loans by expressing a percentile of
2 value.

3 So maybe I used 50 percent. Maybe I used
4 60 percent. Maybe I came up with -- I don't know what
5 percentile I used back then. But it was enough to
6 look at a value of 242.

7 Now, I'm sure that is the valuation source
8 that I used at that point because I remember I did it
9 on other occasions, also.

10 Q And who did you rely on to determine what
11 they could sell it for? Were you again relying on
12 the word of the people who were going to sell it or
13 the adjoining property that had been sold?

14 MR. COLE: Or your own experience in the
15 community as a bank officer?

16 THE WITNESS: Well, since we were the only
17 bank in town, and I did -- Mr. Patterson and I did
18 probably a great deal or percentile, we probably had
19 70 percent of the real estate type loans in that
20 county. We had a pretty good idea of when someone
21 sold a farm or someone sold a tract of land, what the
22 value was.

1 A lot of value was being assigned to river
2 frontage property, and it's that way everywhere.
3 Water front -- property that fronts water always
4 carries a higher value than interior property.

5 BY MR. GICALE:

6 Q That's true. But when you have a piece
7 that fronts on the water, it's only the portion that
8 fronts on the water that has the higher value. Very
9 often times, the parcels in the back are worth a lot
10 less.

11 Is that correct?

12 A It could be. It could.

13 Q Away from the water view.

14 A Exactly.

15 MR. COLE: Although I'll tell you, Mr.
16 Burge, I've looked at the plats that you've just
17 suggested that we look at, and responsive to Mr.
18 Gicale's comment, the prices vary depending on the
19 view and the location of the particular parcel.

20 So if you had that or something like that
21 at the time, it would have reflected the factor that
22 Mr. Gicale just pointed out, I think.

1 THE WITNESS: That's what I'm trying to
2 tell you. That's what you do.

3 BY MR. GICALE:

4 Q I mean, was the process such that Wade
5 and/or McDougal and the Clintons came in and said,
6 look it, this is how we're going to sell these
7 properties. So much for these ones on the water and
8 so much for the parcels away from the water, and this
9 is what we expect to obtain for them.

10 A Yes.

11 Q And then you took their representation and
12 then took a percentage of that to see whether or not
13 your loan amount would cover it?

14 A That's basically correct in context, yes.

15 MR. COLE: Mr. Burge, you said that you
16 were looking at a document there relating to the sale
17 of the participation, if I understood you correctly.

18 THE WITNESS: Yes, sir.

19 MR. COLE: That has a dollar amount of --
20 what did you say? \$282,000?

21 MR. GICALE: 242.

22 THE WITNESS: \$242,000.

1 MR. COLE: I'm sorry. I couldn't hear you.
2 Mr. Gicale was talking.

3 THE WITNESS: \$242,000.

4 MR. COLE: And I want to be clear I
5 understand you on that.

6 Is that the value of the portion of the
7 loan you sold to Union Bank or is that the entire
8 property valuation, if you follow my question?

9 THE WITNESS: The entire property
10 valuation, the entire 230.24 acres.

11 BY MR. GICALE:

12 Q All right. That's what you valued the
13 property.

14 A Yes, as -- again, let me qualify what I'm
15 talking about, Mr. Gicale.

16 That was a valuation assigned to a tract
17 of land that was going to be converted into a
18 development loan and a subdivision, if you will, and
19 that's what was going to be -- that was not going to
20 be the sell-out of the project.

21 That was going to be the safe haven dollar
22 amount that we could rely on if we had to take that

1 property back, probably getting somewhere close to
2 that number.

3 MR. COLE: So that's a liquidation value,
4 in other words, that if you took the entire parcel
5 back and had to sell the entire parcel without
6 putting any more money into it for development costs,
7 that was your best estimate of what you could sell it
8 for?

9 THE WITNESS: Well, no. Let me rephrase
10 that.

11 That is what I felt like if we got that
12 property back in a reasonable period of time, you may
13 be able to market it and get that much money back for
14 it.

15 If the infrastructure has been placed --

16 MR. GICALE: Well, right.

17 THE WITNESS: -- the roads have been cut
18 and everything had been done, then that's what I felt
19 like the property had a sell-out value, because my
20 feeling was simply that there were tracts up there on
21 the front that were five acres -- I don't know what
22 they were asking. You've got that in front of you. I

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1 don't know.

2 But let's just say that they were asking
3 \$1500, \$2000. You could sell those very easily for
4 \$10,000 an acre. And that's basically what it boils
5 down to.

6 And if you get down to it, and I just got
7 through multiplying and dividing some numbers. But if
8 you divide the 230.24 acres into the \$242,000, it
9 comes out to a thousand dollars an acre.

10 So that is not far off from the original
11 acquisition price because the original acquisition
12 price was \$877 an acre.

13 So you're talking about a grand total of
14 an upgrade over acquisition of \$130 per acre.

15 BY MR. GICALE:

16 Q When you say the original acquisition
17 costs, are you talking about the cost to Patterson's
18 group or are you talking about the cost to the
19 McDougals and Clintons?

20 A To the Clintons and McDougals.

21 Q Okay.

22 A Because the total cost, and I'm just

1 trying to see what -- I'm looking through here.

2 The property cost about \$202,000,
3 \$203,000. So if you take \$203,000 and you divide it
4 by the 230.24 acres, you come up to \$881.68 an acre.

5 Now that's what Mr. McDougal, Mr. Clinton
6 and their spouses paid for that property versus what
7 Mr. Patterson and the 101 River Development Company
8 paid \$500.

9 So the Pattersons and them basically made
10 about \$381 per acre on the Clintons and McDougals.

11 Q Now, incidentally, the \$500 an acre that
12 the Patterson group paid is a price similar to the
13 price you quoted earlier for pastureland.

14 A Correct.

15 Q It was the going rate for that type of
16 land.

17 A Yes. They paid the going rate for that
18 type of land.

19 But they also received at the same time a
20 lot of river frontage property. If my memory serves
21 me correctly, I think they had like 2-1/2 or 3 miles
22 of river frontage that they bought that they cut the

1 same bucks.

2 That property selling upriver was going
3 for like \$10,000 a lot.

4 So, basically, they were getting a one-
5 acre lot on the river for \$500 that someone else was
6 selling for \$20,000 up the river.

7 Q Now --

8 MR. COLE: But Mr. Burge --

9 THE WITNESS: Yes, sir.

10 MR. COLE: -- in order to do that, the
11 Patterson group had to buy a much larger piece of
12 property, did they not?

13 THE WITNESS: They sure did and they
14 bought it from a trustee in bankruptcy and they were
15 the only bidders for the property.

16 MR. COLE: But most important, their
17 \$500-an-acre price reflects a purchase of whatever
18 the total acreage they purchased was, 1000 acres, or
19 whatever it was, while the \$877, or whatever the
20 number was that the Clinton/McDougals paid was then
21 for a smaller tract of approximately \$200 an acre.

22 And then, finally, when you get down to

1 the one-acre lot on the river, you have the highest
2 premium price of all of several thousand dollars.

3 THE WITNESS: Exactly.

4 MR. COLE: So, in large measure, it's a
5 function of how much property you're buying. You get
6 a smaller price per acre in buying a larger parcel,
7 if I'm understanding your testimony correct.

8 THE WITNESS: You hit -- Mr. Cole, you hit
9 the nail right on the head.

10 The larger the tract of land that you buy,
11 the less you pay per acre. And the smaller the
12 acreage that you buy, the more you pay because you
13 have other costs associated with it. You not only
14 have the acquisition price, you have the soft costs,
15 which can be engineering, surveying, government
16 approval, building of roads, roadbeds, water.

17 There's a lot of factors that add into
18 that that can make that price of that property go up.

19 BY MR. GICALE:

20 Q Now, what were you looking to -- when you
21 were trying to make a determination as to whether or
22 not the McDougals and Clintons could make the

1 payments on this loan, what were you looking to as a
2 source for those payments, because you had some
3 substantial interest. And I note that the first note
4 was due in six months.

5 This wasn't a standard type of mortgage,
6 you know, a 20- or 30-year mortgage.

7 MR. COLE: Let's slow down a bit because I
8 want to go through in detail.

9 MR. GICALE: I would like to do that.

10 MR. COLE: I don't want you to
11 mischaracterize the documents.

12 MR. GICALE: I'm not mischaracterizing.
13 Can we go off the record for a second?

14 MR. COLE: Sure.

15 (Discussion off the record.)

16 BY MR. GICALE:

17 Q Mr. Burge, in trying to make a
18 determination as to whether or not to authorize this
19 loan, what criteria did you use, aside from the value
20 of the property, in terms of whether or not the
21 people you were lending the money to could afford to
22 repay it?

1 Did you look to their income?

2 A Yes and no. And to be quite candid, Mr.
3 Clinton and his wife were quite young then and they
4 didn't have -- and I'm not trying to breach their
5 finances -- but they were young. Mr. Clinton was at
6 that time the attorney general of the State of
7 Arkansas and his salary was set by the state
8 constitution, which at that time had set his
9 remuneration at \$7500 a year.

10 He had just been elected governor of the
11 State of Arkansas and his salary was going to
12 increase to \$10,000 a year, and that also was set by
13 the constitution.

14 \$10,000 a year for Mr. Clinton would not
15 even pay the interest on the debt.

16 Mr. McDougal at that point in time was, if
17 my memory serves me properly, was a government
18 employee and was on the staff of Senator J. William
19 Fulbright, or in transition. He had sold some of
20 these tracts of lands that I had referred to you on
21 these properties that he had subdivided and sold them
22 on contract for deed in which he was collecting

1 monthly payments. And he had ample funds to service
2 the debt.

3 Q To service the debt on the tracts he had
4 sold or are you talking about this acquisition?

5 A On this piece of property here. Okay?
6 Now, if my memory serves me properly, that's what I
7 remember.

8 So Mr. Clinton and his spouse added very
9 little to the ability to repay criteria, whereas Mr.
10 Clinton and his spouse --

11 Q Mr. McDougal, is it?

12 A Pardon?

13 Q I'm sorry. You said -- you started out by
14 saying Mr. Clinton and his spouse had very little
15 ability to pay and then you said, whereas, Mr.
16 Clinton again.

17 I think you were referring to Mr.
18 McDougal.

19 A Whereas, Mr. Clinton possessed an enormous
20 amount of character and integrity, which is also an
21 integral part of the approval process.

22 He also had a future and an income stream

1 that probably that his wife could provide on the
2 outside.

3 So when you look at the underwriting of a
4 credit and you look at the character and the capacity
5 of the individual along with the conditions and their
6 capital reserves, Mr. McDougal possessed probably
7 three or four of those major criteria, whereas Mr.
8 Clinton had a criteria that we felt like made it
9 almost a fail-safe loan in that it would be political
10 suicide for him to default while governor of the
11 State of Arkansas on a loan.

12 So --

13 Q I appreciate what you're saying, and I
14 appreciate you can have all the integrity in the
15 world, and it would be political suicide not to pay
16 it.

17 But if the individual didn't have enough
18 income to pay it --

19 A Well, Mr. Gicale, one of the things,
20 unfortunately, that is -- banks get repaid three
21 ways. The individual earns or the corporation earns
22 enough money to pay off the debt. They foreclose and

1 sell the collateral. Or if the loan becomes in a
2 perilous state that some other banker comes in and
3 bails you out and pays the loan off and thinks it's a
4 good deal.

5 Now that's the only way you get paid off
6 on a loan.

7 And Mr. Clinton, with his position as
8 governor-elect, would have the ability to borrow
9 monies if he needed to to discharge that debt. And
10 especially after they put additional funds into it in
11 the forms of other types of engineering, soft costs,
12 surveying, that they had to do.

13 So they were not only plowing that \$20,000
14 of equity into the project. They were probably going
15 to end up placing another \$25,000 or \$30,000.

16 And I think, looking in terms of 1978
17 dollars, in terms of 1996 dollars, if my memory
18 serves me correctly, when I graduated from college in
19 1971, a Harvard MBA was making \$7800 a year.

20 So \$50,000 of equity in 1978 was still an
21 ample amount of equity to concentrate on any project.
22 So --

1 Q Did the financial statements indicate that
2 they had the ability to put that kind of equity in
3 the project?

4 MR. COLE: Who's the they?

5 MR. GICALE: The Clintons.

6 MR. COLE: What about the McDougals?

7 MR. GICALE: The Clintons first.

8 THE WITNESS: I can't comment on the
9 Clintons' financial statement. And to be quite candid
10 with you, I don't believe that any of the Clintons' --
11 and I'm trying to use a fairly cautious choice of
12 words -- I don't believe that there were liquid
13 enough assets to provide that comfort level.

14 BY MR. GICALE:

15 Q Okay. You made reference to putting
16 \$25,000 to \$40,000 or \$50,000 in equity in developing
17 the land. And you said equity.

18 And as we've earlier pointed out, \$20,000
19 was borrowed from Union Bank. And if there were
20 other development costs, another \$30,000 or \$40,000
21 in development costs.

22 Was there a representation as to where

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1 that money would come from?

2 A Well, I can't remember specifically on
3 that. I really don't.

4 But if my memory serves me correctly, I
5 believe Mr. McDougal had a steady cashflow, a stream
6 coming in of income.

7 Q All right. And by the way, this was a ten-
8 percent interest note.

9 A That's right. But that was set by the
10 Arkansas usury limits. In 1978, Arkansas operated
11 under a very antiquated and archaic state
12 constitution that was written in 1974. That's all
13 you could charge on a loan.

14 We charged the max, ten percent, on every
15 loan that we made.

16 Q Right. But on that loan, you're talking
17 \$18,000 a year, which is a substantial amount of
18 interest.

19 Correct?

20 A It is a substantial amount of interest.
21 But if one was to basically subdivide the property
22 and market it, with a little vigor in the right

1 places, and Mr. Wade was the marketing realtor of
2 record for Mr. McDougal and Mr. Clinton, he basically
3 had lots of contacts with physicians in Texas and the
4 Kansas City area up there who were looking for land
5 as a hedge against inflation, because if you
6 remember, during those period of times, inflation was
7 running 10, 12, 13 percent a year, and people wanted
8 to buy land.

9 Q All right. Well, going back to the initial
10 determination as to whether or not these parties
11 could make the payments on this loan, you indicated
12 that the Clintons, as governor, he would be making
13 \$10,000 a year. And then you said that Mr. McDougal
14 had some kind of income stream from some land
15 contracts.

16 Now, as I indicated, the interest on this
17 loan would be about \$18,000 a year.

18 Did you come to a determination that
19 between the Clintons and the McDougals that, without
20 any sales, that they could fund the interest on that
21 loan from their income?

22 A Mr. Gicale, I can't remember specifically

1 if I put a put a pencil to that and said, as a fail-
2 safe, a secondary source of repayment, if the plan
3 can't be sold into the market in a steady enough
4 stream to create a sufficient amount of cashflow to
5 cover the interest costs, would Mr. Clinton be able
6 to use a pro rata sum of his \$10,000-a-year salary to
7 help support the carrying or the interest, if you
8 will, on that debt.

9 I don't remember if I put a specific
10 pencil to that.

11 Q Well, projects like this usually take some
12 time to develop.

13 Correct?

14 A Well, they do, but, again, I don't want to
15 confuse you with 1996 starting a subdivision where
16 you've got to jump through every governmental hoop
17 there is in the world. From the time you decide to
18 do it, it may be a year and a half or two years.

19 All you had to do back in Arkansas in that
20 period of time if you wanted to start a subdivision
21 is you went to the county courthouse and you filed
22 your plat. And you went up there with a bulldozer and

1 you got you an engineer and you drove stakes and
2 surveyed out there and you went out there and you
3 just cut the roads.

4 Don't forget, this is in a rural part of
5 the county. The whole county was rural.
6 There wasn't city water and there wasn't city sewer.

7 So all of these lots were going to have to
8 have a well drilled on them and they were going to
9 have to be able to absorb a septic system.

10 So once you cut the road in and once you
11 did the surveying and the engineering that you were
12 going to have to have so that when they built the
13 roads, they wouldn't rain and they would flood out
14 the lots, then, atypically, you're ready to go.

15 Now this was in 1978 and the loan was
16 closed in August. It was basically past the selling
17 season because they only had just about another 30
18 days for the tourists and a few other things.

19 But Mr. Wade had made ample money by
20 advertising in newspapers in Chicago and Dallas and
21 Kansas City and St. Louis about land for sale. He
22 sold a lot of land over the telephone sight unseen.

1 So I really believe that Mr. Wade had
2 basically told Mr. Clinton and Mr. McDougal that he
3 could market this property the same way.

4 Q Well, would it be safe to say, then, and I
5 don't want to put words in your mouth, that you were
6 not looking to the income of the governor and Mr.
7 McDougal, to service this interest? You were looking
8 to land sales.

9 A I would be safe in making the statement, I
10 would be safe in saying that I looked for the land
11 sales to be the primary source of repayment. And I
12 would be safe to say that the secondary source of
13 repayment would have been Mr. McDougal.

14 Q Where were the Clintons in terms of a
15 source of repayment, when you say secondary is
16 McDougal?

17 A Well, I think that if push comes to shove,
18 and you gentlemen are lawyers and you know on a
19 promissory note, if you have comakers, that you're
20 jointly and severally liable. And if either one of
21 you are on default, if you're both on the note, I'm
22 going to go with the deep-pockets theory and go with

1 the person who has the money.

2 Q Okay. And so you viewed McDougal as the
3 guy with deep pockets who had the money.

4 A He's the deep pockets.

5 Q Pardon me?

6 A He was the one with the deep pockets.

7 Q Okay.

8 MR. COLE: Will you permit me one
9 question?

10 MR. GICALE: Sure.

11 MR. COLE: And it will only be one, I
12 promise.

13 MR. GICALE: I'll permit you more than
14 one.

15 MR. COLE: With respect to the way you
16 looked at the underwriting of this loan, Mr. Burge,
17 did you give it any special treatment because of Mr.
18 Clinton's involvement, or was this the way you looked
19 at all the loans for this kind of project at the
20 time?

21 THE WITNESS: Well, Mr. Cole, I would be
22 remiss if I didn't tell you that because we had an

1 opportunity to make a loan to the new governor of the
2 State of Arkansas, that that didn't have an impact on
3 our decision.

4 MR. COLE: I understand that, I guess, and
5 I'm sorry, I promised you one question, Lou. But what
6 I'm really saying is would you have made the loan on
7 the same terms to the McDougals if the Clintons
8 hadn't been there?

9 In other words, you testified that the
10 property sales and the McDougals' ability to pay were
11 the primary factors. And it sounds like the Clintons
12 were essentially a sweetener for you, to the bank, on
13 this, and not a determining factor on whether or not
14 you would make the loan.

15 THE WITNESS: I would assume that back
16 then, and, again, I have no recollection of what Mr.
17 McDougal's financial statement was. But if we would
18 have made that loan and we would relied on his
19 financial statement, I would assume that we would
20 have made the loan just to Mr. McDougal on a stand-
21 alone basis.

22 MR. COLE: Sorry, Lou. That took two

1 questions, but thank you.

2 BY MR. GICALE:

3 Q Did you deal with the Clintons at all in
4 terms of this loan?

5 A Yes, I did.

6 Q What was the extent of your conversations
7 or dealing with them with respect to this loan?

8 A Well, shortly -- and it's funny that
9 you're just asking, but I'm sorry, gentlemen. I'm
10 trying to keep my answers short, but I just -- am I
11 rambling too much for you?

12 Q No, you're fine.

13 A Okay. Shortly after the loan was made,
14 there appeared an article in a statewide newspaper
15 challenging the fact that Clinton -- and at that
16 time, after the loan was made and sometime later, Mr.
17 McDougal went as a chief aide to the governor --
18 challenging the fact that how did Bill Clinton get a
19 loan for \$200,000 or \$180,000 when he was only making
20 \$10,000 a year?

21 And the newspaper called me and asked me
22 for information pertaining to the loan and I felt

1 like that was an invasion of Mr. Clinton, Governor
2 Clinton at that time, rather, and Mr. McDougal's
3 privacy to discuss their personal business and I
4 declined.

5 Q Which newspaper was that?

6 A It was the Arkansas Democrat. I've got a
7 copy of the article. I'll be happy to send that to
8 you if you want it.

9 Q Okay.

10 MR. COLE: Could we tighten up on the
11 times a little bit, Mr. Burge, just so that I'm
12 clear?

13 THE WITNESS: Yes.

14 MR. COLE: This loan, according to the
15 documents, was made in August of 1978. The general
16 election would have been in November.

17 So I assume what you mean is that Mr.
18 Clinton had won the Democratic primary in the spring.

19 THE WITNESS: Yes.

20 MR. COLE: And was expected to be elected
21 governor in the general election in November because,
22 at that time, Republicans weren't being elected

1 governor of Arkansas.

2 THE WITNESS: That is correct. So whoever
3 was the elected Democratic nominee was just -- he was
4 governor. It was just a formality that they went
5 through the national elections.

6 BY MR. GICALE:

7 Q Okay. So this article came out.

8 A This article came out right after the
9 elections.

10 MR. COLE: Which elections?

11 BY MR. GICALE:

12 Q The primary or the general election?

13 A The general election. The newspaper
14 article was critical of the fact that Mr. Clinton had
15 basically left this transaction off his ethics
16 statement and was criticized about it. And he said
17 he'd forgot. That's when the newspaper picked up on
18 it.

19 After that, they had written about this
20 story a couple of days. The governor called me and
21 said, Frank, I ain't got anything to hide on this.
22 Would you please tell them everything because this

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1 was just a business transaction, and it was.

2 The newspaperman called me and I spoke
3 with him and I led him through everything that he
4 needed to know that I thought was pertinent to this
5 transaction.

6 And after that, the story died.

7 Q Now that wasn't the first time that you
8 talked to the governor, though.

9 A I had really -- up to that point in time,
10 up to that point in time, to be quite honest with
11 you, if I had talked to him, it had been for a
12 document or two and it had probably been on just a
13 casual basis and probably at the loan closing. It
14 was just one of those things that you just, just, you
15 know, a casual comment.

16 Q Well, at some point in time, they signed,
17 Mr. and Mrs. Clinton signed these documents.

18 Did you see them more than once or just at
19 the loan closing?

20 A Just at the loan closing.

21 MR. COLE: But you have a clear
22 recollection that they did attend the closing in

1 person and signed the documents. Mr. McDougal did
2 not sign the documents on a power of attorney for
3 them.

4 THE WITNESS: No, he did not. As a matter
5 of fact, there's lots of things that I can say as we
6 all get older, that your memory starts to get hazy
7 about things.

8 But the reason why I remember that day so
9 vividly is that this was the largest real estate
10 transaction that had ever taken place in the history
11 of this county.

12 MR. COLE: You mean the entire 101 River
13 Development Transaction.

14 THE WITNESS: It was the largest thing and
15 we were part of it. And this was back in the days
16 when I didn't have a secretary, Mr. Patterson had
17 one. And we had stayed up that night and the night
18 before typing all the documents.

19 We typed our own documents. We did
20 everything, just putting packages ready with copies
21 to go to Union National Bank. It was basically an
22 all-night deal. And the next day, all we did was

1 close these loans and get them all closed.

2 And so, I remember all these things.

3 Nothing back in those days -- we didn't
4 mail out documents. Everybody came to the bank
5 because everybody wanted their check right then. The
6 realtor wanted his commission, the selling party
7 wanted their money, and the bank wanted to book the
8 loan right then.

9 Everybody showed up at the bank back in
10 those days, all the parties -- the seller, the buyer.
11 Everybody was there.

12 BY MR. GICALE:

13 Q Okay. Prior to the closing, though, you
14 said you received a financial statement from the
15 Clintons and some kind of loan application, I assume.

16 Did you have any conversations with them,
17 or how did you receive the paperwork?

18 A Through the mail. It had been sent to us.
19 Most of my conversations, when I did have
20 conversations, were with Mr. McDougal. He was the one
21 that I basically asked for things. He appeared to be
22 the primary partner of the partnership.

1 At least he was the one that seemed to be
2 knowledgeable of all the facets of each of the
3 partners.

4 Q Well, would it be fair to say that you did
5 not talk to the Clintons at all, or see them, until
6 the closing?

7 A That would be almost accurate.

8 Q So documents that you received with their
9 signature, up until that point, you got through
10 McDougal.

11 A Or they were mailed under separate cover
12 from the Clintons to the bank.

13 Q All right. Would you have had phone
14 conversations with them prior to the closing?

15 A I don't think that we did. I don't think
16 we did.

17 Q So basically, the loan came to your
18 attention through Wade.

19 A That's correct.

20 Q And then Wade introduced you to McDougal
21 and McDougal took care of all of the paperwork until
22 the date of the closing when you met the Clintons.

1 A That is accurate.

2 Q All right. Now Mr. Cole asked you earlier
3 about whether or not you would have -- if the
4 Clintons weren't there, whether you would have loaned
5 the money to McDougal on this deal, if the Clintons
6 were not involved.

7 And you said, yes, you would have, based
8 on his financial status.

9 If McDougal wasn't involved, would you
10 have loaned the money to the Clintons?

11 A Well, that's a hard thing to answer
12 because that loan would have went to my board. A
13 state senator sat on my board, a couple of other
14 political guys that were active in county politics.

15 I don't know. I really don't know.

16 Q Based on the criteria you used in terms of
17 the loan-to-value of the property and then someone's
18 income or assets to make the payments on this loan,
19 and you said you considered McDougal's cashflow and
20 his assets.

21 Would you have recommended such a loan?

22 A In all honestly, I probably wouldn't have

1 recommended that loan.

2 Q You would not have.

3 A I would not have.

4 Q Basically, because the Clintons didn't
5 have the assets or the income stream to pay if they
6 didn't sell the property.

7 Correct?

8 A That's absolutely correct.

9 Q Now the structure of this loan, initially,
10 on August 2nd, '78, it was set up so that it was due
11 in six months. And then it thereafter --

12 MR. COLE: Excuse me. Can we ask that as a
13 question rather than stating that for Mr. Burge? And
14 perhaps if he has a copy of the note itself, which we
15 have a copy of here and can describe to him, we could
16 ask him to describe the loan terms.

17 MR. GICALE: That's fine.

18 BY MR. GICALE:

19 Q Yes, could you describe the loan terms?

20 A I do not have a copy of the note in my
21 possession. But I remember specifically how we did
22 notes back then.

1 We used to -- and again, I know you're
2 getting tired of hearing this. We were a small bank.
3 There was not one thing in our bank that was
4 automated. Everything was handled clerically and
5 manually.

6 We computed interest manually on CDs, on
7 savings accounts, and on loans.

8 So all of our notes were typed up and at
9 that time, there were little envelopes, small
10 envelopes that had promissory note language on the
11 front of it.

12 We made all of our loans on what is
13 referred to as demand. We collected interest every 90
14 days or every six months. It just depended on the
15 type of credit that it was.

16 If you were a farmer and we were lending
17 you on cattle, we made you a one-year note. And the
18 reason we made you a one-year note is because that's
19 when you sold your cows. It was structured.

20 But this loan was basically a typically
21 on-demand note, and that's how we wrote it -- on-
22 demand, no-demand, within six months.

1 Q Now was there any understanding at the
2 beginning as to what would happen if there weren't
3 sales to service the debt on this loan?

4 Was there any discussion about that?
5 Would you monitor the sales of the land to determine
6 whether the project would fly?

7 A Well, what happened -- and let me lead you
8 to that quickly because a situation occurred like
9 that.

10 When the loan was made, Mr. Patterson had
11 the authority to structure the loan on this demand
12 basis.

13 After I became president of the bank, and
14 I became president of the bank shortly after this
15 loan was made.

16 Q In '78?

17 A In 1979, I became president.

18 Q Do you recall what month in '79?

19 A Yes, I know. It was March, 1979. Mr.
20 Patterson was fired.

21 Q Do you know why?

22 A Yes, I do know why. Mr. Patterson had

1 breached his fiduciary duty as president of the bank.

2 Q Related to these loans?

3 A Not related to those loans. It was related
4 to the fact that he was involved with --

5 MR. COLE: I think, Mr. Burge, let me
6 consult if I could on the record here with Mr. Gicale
7 because while I think certainly, if Mr. Patterson's
8 dismissal had in any way anything to do directly or
9 indirectly with these loans, we need to get into it.

10
11 On the other hand, if it had nothing to do
12 with that, we may want to do this off the record
13 where it won't become a permanent part of the Senate
14 record here.

15 MR. GICALE: No, I agree. I agree. As it
16 related to these loans, that's my interest.

17 BY MR. GICALE:

18 Q Was it related to these loans?

19 A No, sir, it was not related to those
20 loans.

21 Q Okay. So you became president in '79.

22 A Yes, sir.

1 Q And I know we're kind of going slowly to
2 get into '79. But one of the things that I want to
3 understand is, at the time of the closing, or at some
4 point in time, you asked Union Bank to participate.

5 Now would that have been before the
6 closing or simultaneous to the closing, or sometime
7 subsequent?

8 A It was well before the closing because
9 there is -- Arkansas, like every state, has a legal
10 limit for a bank. And that loan would have been a
11 violation of state law had it been made without a
12 participation sold the same day.

13 Q Okay. And who did you deal with at Union
14 Bank on that participation?

15 A Well, I dealt basically -- the head of the
16 correspondent department was a gentleman by the name
17 of Howard Walz. But the person I dealt with was one
18 of the assistant vice presidents. And the gentleman's
19 name was Morris Jackson.

20 That's the person I dealt with on the
21 packages and mailing the packages and doing
22 everything.

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1 Q Morris Jackson?

2 A Morris -- M-o-r-r-i-s -- Morris Jackson.

3 Q Okay. All right. Go ahead. So you started
4 to talk about March of '79, when you became
5 president.

6 A Well, one of the things that happened is
7 that they had paid the interest. And by August of
8 1979, when the loans came around for their first
9 maturity, I restructured the loan and put it on a
10 one-year basis subject to Mr. Clinton and Mr.
11 McDougal making principal reductions on the land.

12 Q Okay. Now, again, to back up a second, you
13 said it was a six-month note.

14 A Yes.

15 Q At first. And then you said, when one year
16 had passed --

17 A Well, what happened is that, at the end of
18 the first six months, we let them pay the interest
19 and roll it over. That's just a term. We extended the
20 loan and rolled the loan over.

21 Q Now, our records -- I don't have an
22 extension for -- I have one. The first extension we

1 have is November of 1979. And so we don't -- do you
2 have an extension after the first six months?

3 MR. COLE: Well, I have a question for Mr.
4 Burge that goes to exactly that point, which is
5 difficult to do without showing him the document.

6 And I take it from what you said, you
7 don't have this document, Mr. Burge. But we have a
8 copy of a document that's a small letter envelope-
9 size statement that's dated August 2nd, 1978, and it
10 appears to be a copy of the note.

11 On the right side, at the top it has
12 \$182,611. And then there are columns below where
13 there's a column for date and a column for paid
14 interest and a column for paid principal and a column
15 for balance.

16 THE WITNESS: That's correct.

17 MR. COLE: Does that sound like the form
18 of note that you were using at the time?

19 THE WITNESS: That is exactly the note
20 that we were using.

21 MR. COLE: And there's an entry which I
22 can barely read halfway down those columns, only one

1 entry. And it appears to be something, maybe 10/25.
2 And then it maybe says, paid something -- it's very
3 difficult to read.

4 But my question goes to whether you recall
5 if there was an interim interest payment and would it
6 have been recorded on this note?

7 If I could show you the note, you might be
8 able to read this.

9 THE WITNESS: Yes, sir. At the end of six
10 months, they paid interest. The note was a demand
11 note. You really didn't have to type a renewal or
12 anything.

13 So six months more went by and that would
14 have been the one-year anniversary date. And that
15 would have been August of 1979.

16 In August of 1979, I was president of the
17 bank and I talked to Mr. McDougal. And if my memory
18 serves me properly, I think that's when I also
19 contacted Mr. Clinton. We had set up an agreement. I
20 did it by letter to both of them jointly that there
21 would be no more renewals of this loan unless there
22 was ten-percent principal reduction paid every year.

1 So that means that we were going to renew
2 it for one more year, but they were going to have to
3 make a ten-percent principal reduction, or \$18,000,
4 by the end of August the 6th, 1980, or the loan
5 wouldn't be renewed.

6 BY MR. GICALE:

7 Q Now what prompted you to do that?

8 A Because I could see that the property
9 wasn't selling. And at that time, 1979, we were
10 entering into some high inflationary times. Interest
11 rates were starting to increase and it was just
12 evident to me that it was going to be a tough time
13 for them to -- for everybody there to sell
14 speculative real estate.

15 That's why I did it.

16 Q All right. So the picture that you
17 described at length to us a half-hour or so ago about
18 the prospects for the land and how much it was going
19 for, that had changed. In the short span of a year,
20 that had changed and that caused you some concern
21 about the loan.

22 A That's right.

1 Q And so you decided to add some terms to
2 it.

3 A That's right.

4 Q Okay. Is there anything else that occurred
5 at that point?

6 A No. I sent the letter to -- I remember Mr.
7 McDougal basically sometime after that, and I can't
8 remember exactly, called up and said, well, what
9 happens if we pay \$18,000 on the property? What
10 happens?

11 And I told him, if you paid \$18,000 on the
12 land, that we would do a pro-rata release of property
13 in like kind for the principal reduction that was
14 made.

15 So we also had an agreement that as they
16 sold land and it was applied to the note, then we
17 would release it so they could deed the property to
18 the acquirer or purchaser.

19 Q Was there a discussion at that point in
20 '79 or in '78 about whether the property would be
21 sold via land contracts or deeded out?

22 A There was not, and that was one of the

1 problems. The negotiation of this loan originally was
2 done by Mr. Patterson and Mr. Wade for the benefit of
3 Mr. McDougal and Mr. Clinton.

4 Atypically, they were basically given one
5 year to basically get everything -- as you stated so
6 aptly earlier, it takes time sometimes to get
7 everything ready to sell and the marketing and all
8 put together and the packages, et cetera.

9 That was probably an agreed-on thing with
10 Mr. Wade and Mr. Patterson.

11 Q You mean they indicated to the bank that
12 it would probably take a year before they could start
13 to sell anything.

14 A They didn't indicate to the bank. But I'm
15 saying that maybe sometime later on when the thing --
16 that an agreement was probably made that if they
17 didn't get everything done for the selling season,
18 that -- remember, you were closing this thing in July
19 or August. And here you are, you're closing it and by
20 that time, you may have, by the time you get the
21 roads and everything in, you're in November and
22 December.

1 Well, that was an area of the state that
2 was up near the Missouri border, the Ozarks, and we
3 received a lot of inclement weather. We received a
4 lot of ice and snow up there.

5 And so people atypically don't buy real
6 estate when there's snow on the ground. That was
7 probably a dead point that an agreement was made
8 possibly between Mr. Patterson and Mr. Wade to maybe
9 give them a little more time since the weather had
10 turned. The weather was turning against them and
11 their marketing efforts.

12 Q Was there an understanding from the
13 beginning that you would consult with them from time
14 to time when this thing was in demand status as to
15 the sales to determine whether or not, aside from
16 your view of the market in general, whether or not
17 they were going to be able to service the loan?

18 A Well, I think, Mr. Gicale, the thing that
19 happened that was almost unfortunate for everybody
20 concerned was that the economy was weakening at that
21 point in time and real estate just almost came to a
22 halt in just a short period of time after that.

1 It affected that area for quite some time
2 after that.

3 Q Okay. So you restructured this in August
4 of '79.

5 A Right.

6 Q With an agreement that they would reduce
7 principal ten percent per year.

8 A Per year.

9 Q And at that point, the extension agreement
10 that we have a copy of, as I earlier indicated, is
11 dated November 9th, 1979.

12 Is there a reason why you recall it was
13 dated at some later point?

14 MR. COLE: Why don't we -- at least I'd
15 like to go over with him his August 6th, 1979 letter,
16 which we have here, which I assume to be the letter
17 that he's referring to that he sent to the Clintons
18 and McDougals.

19 THE WITNESS: That's right.

20 MR. COLE: Which has some language in it
21 that I'd like to get his explanation of. And then I
22 think we get to your question of what happened

1 between August and November.

2 MR. GICALE: Go ahead.

3 THE WITNESS: Go ahead.

4 MR. COLE: Do you have a copy of that
5 letter, Mr. Burge, dated August --

6 THE WITNESS: I do. I have a copy of it.

7 MR. COLE: It's addressed to James B. and
8 Susan McDougal and Bill Clinton and Hilary Rodham.

9 THE WITNESS: That's correct.

10 MR. COLE: Okay. And just for our records
11 here, the copy we have is numbered DKRT800433.
12 Yours, I suspect, does not bear that number, but
13 that's for our own internal record-keeping purposes
14 here.

15 THE WITNESS: Okay.

16 MR. COLE: Does this letter, then,
17 evidences the new agreement that you discussed with
18 Mr. McDougal that you testified to a moment ago?

19 THE WITNESS: Yes. That letter right there
20 is, in essence, a synopsis of the agreement that I
21 had with Mr. McDougal. It wasn't really so much an
22 agreement as it was as what I was going to require on

1 the loan.

2 And I sent that letter as evidence of the
3 conversation that I had with Mr. McDougal.

4 MR. COLE: And when you say in the first
5 sentence of this letter -- Subject to the terms of
6 your promissory note dated August 2nd, 1978, which is
7 demand with six months' notice required, the balance
8 will become due on August 5th, 1980 -- is that the
9 same promissory note that I referred to earlier?

10 THE WITNESS: It's most certainly the same
11 promissory note.

12 MR. COLE: Well, I'm confused because Mr.
13 Gicale has been referring to this as a six-month
14 note. And the copy that we have says -- demand --
15 six-month notice required.

16 Can you explain what the term, demand with
17 six-month notice required, which you also use in your
18 letter, means, in terms of the period of that loan?

19 THE WITNESS: Well, essentially, again,
20 this was just -- we wrote notes as on-demand basis.

21 MR. COLE: Well, what does that -- that
22 means something to you, but for the readers of this

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1 transcript who are not in the banking business --

2 THE WITNESS: Well, a demand note is a
3 note. It says just what it says.

4 If you sign a demand note with me and I
5 want my money tomorrow and you sign it today, I can
6 send you a certified letter demanding payment of that
7 note immediately and I can give you ten days to pay
8 me or I'm going to get a legal action against you.

9 That's exactly what it is. That's just a
10 demand note. There is not a specific time certain
11 that that note matures.

12 MR. COLE: That means the note is payable
13 on demand of the maker.

14 Correct?

15 THE WITNESS: Yes, exactly.

16 MR. COLE: And when you say here, demand
17 with six-months' notice required, does that mean --

18 THE WITNESS: That means that if we wanted
19 our money, we would have to give them six months in
20 order for them to find a new lending source or gather
21 up the money to -- acquire the money, rather,
22 accumulate the money to discharge that debt.

1 MR. COLE: And that is different, is it
2 not, than a note that is due at a date certain six
3 months from the date that it is executed?

4 THE WITNESS: That is exactly right.

5 MR. COLE: And that's the distinction I've
6 been trying to make, although I think Mr. Gicale has
7 not appreciated my interrupting him, between a six-
8 month note and a demand note with a six-month notice
9 provision.

10 THE WITNESS: That is correct.

11 MR. COLE: And essentially, as this note
12 was originally written, if the terms had never been
13 varied, the bank could have never called it and the
14 makers could have paid interest only and you would
15 have had to have given them six-months' notice before
16 they had to pay off the principal balance.

17 Is that correct?

18 THE WITNESS: That is correct. And what I
19 did is I put a date certain into the note to make
20 sure that it did have a final maturity date. And the
21 final maturity date was August the 5th, 1980.

22 MR. COLE: That was the cause of my

1 questions earlier when Mr. Gicale was referring to
2 this as a note that was due in six months. That was
3 not my understanding of the terms of the original
4 note.

5 MR. GICALE: I stand corrected.

6 MR. COLE: Okay.

7 THE WITNESS: Okay.

8 MR. COLE: And so, this letter, as of
9 August 6th, 1979, takes a note that was essentially a
10 demand note and turns it into a note that will be due
11 in a year if an agreed-upon principal reduction of
12 ten percent is not performed.

13 Is that correct?

14 THE WITNESS: That is correct. If they
15 had not -- the meaning of the letter is that, by
16 August the 5th, 1980, if Mr. McDougal and Mr. Clinton
17 did not reduce the principal amount by ten percent,
18 or \$18,000, the bank would then call the note.

19 But the bank would also accept as a
20 principal reduction of ten percent any land that they
21 sold off that would equal to ten percent of the
22 principal.

1 Basically, what I was trying to do with
2 this letter was to establish discipline in the
3 credit. That is that there was an accountability that
4 you just couldn't keep going on paying interest every
5 six months.

6 MR. COLE: One more question, if I could,
7 Mr. Burge.

8 THE WITNESS: Go ahead.

9 MR. COLE: And my understanding of the
10 agreement, though, also to provide that so long as a
11 ten-percent principal reduction payment was made, the
12 expectation was that the loan would be renewed for
13 additional time periods.

14 THE WITNESS: That is correct. That is
15 correct.

16 MR. COLE: So this is not to say that the
17 entire sum was expected to become due and payable at
18 the end of a year. It was expected to be rolled over,
19 in banking terminology.

20 Correct?

21 THE WITNESS: Rolled over in banking
22 terminology. You're correct.

1 MR. COLE: Okay. Now I guess we're now to
2 the point that Mr. Gicale raised of -- well, I have
3 another document before we get to the extension
4 agreement that you have, Mr. Gicale.

5 I also have a document, and let me give
6 the number for our records here, for our transcript --
7 DKRT800529.

8 You have that as well, I see.

9 MR. GICALE: Right. That's 1980.

10 MR. COLE: I'm sorry. You're right. It's
11 1980. I stand corrected.

12 So I guess the next document in the
13 sequence that we have is -- what's the date of the
14 next extension agreement?

15 MR. GICALE: It's the document number
16 CBF0271. The date of the extension, that the
17 extension was granted was November 9th, 1979.

18 BY MR. GICALE:

19 Q This -- and I take it you don't have this
20 document, Mr. Burge.

21 Correct?

22 A I do not.

1 Q This looks a little different from the
2 note. But it looks like it could fit on an envelope
3 as well. And it references the principal amount of
4 \$182,611.20, dated August 2nd, '78, and then extends
5 it to 8/5/80, with interest due and payable quarterly
6 at ten percent.

7 A Okay. That is the document -- that is the
8 extension agreement and that is the first extension
9 agreement of the original note dated August of 1978.

10 Q Okay. So while you sent them a letter and
11 you had a letter agreement dated August 6th, 1979 --

12 A This is the new promissory -- this
13 document that you referred to.

14 Q Right.

15 A 529. This document right here is now the
16 new note that controls the transaction.

17 Q Okay.

18 A Okay? This is the renewal note, or at
19 least extension and modification, if you want to call
20 it, agreement there, it is the new instrument that
21 controls the transaction.

22 Q Okay. Now do you recall if anything

1 occurred between the time you wrote the letter in
2 August of '79 and August 5th, 1980, when the note was
3 due?

4 A Well, there was a payment made. I know
5 that. Now it may not have been a full payment, but a
6 payment was made and I think I gave them a moratorium
7 of about 30 days to get the rest of it.

8 I think they paid at least half of it or a
9 portion of it or whatever, which, if my memory serves
10 me correctly, probably what happened, one of them
11 paid their half and the other one didn't have the
12 money to pay their half.

13 Now that's how I remember that situation.

14 Q All right. We have some records, and Mr.
15 Cole can correct me if I'm wrong, and a report, that
16 indicate that \$4350 in interest was paid on or about
17 August 5th, 1980.

18 A Okay.

19 Q No references to any principal up to that
20 point.

21 A Okay.

22 Q Does that coincide with your recollection

1 of the events up to that point?

2 A No. My memory of the transaction was that
3 they paid their interest, which their interest should
4 have been somewhere in the neighborhood of \$9000
5 every six months. And they paid another \$9000 or so
6 dollars in principal.

7 So they paid about \$18,000.

8 And if I remember correctly, McDougal
9 tried to get away with just making that \$9000
10 payment. And I told him that because it was a
11 participating loan and I had another lender that I
12 had to share this principal reduction with, that I
13 would have to have the full amount.

14 And I think that, basically, I must have
15 given Mr. McDougal and Mr. Clinton a verbal
16 moratorium for 30 or 60 days to get the rest of the
17 money in.

18 Sometime after that in 1980, I left the
19 bank on September the 30th, 1980.

20 Q Well --

21 MR. COLE: I'm confused. The payments that
22 you just discussed, Mr. Burge, in connection with

1 your discussion with Mr. McDougal, those were during
2 the first year of the loan's agreement or during the
3 second year after you modified it?

4 THE WITNESS: It was the second year of
5 the loan, the first year of the new loan agreement.

6 MR. COLE: After the modification?

7 THE WITNESS: That's right.

8 MR. COLE: Okay. I don't have a record --
9 do you have a record of that, Lou?

10 MR. GICALE: The record I have is \$4350
11 worth of interest being paid up to August 5th, '80,
12 and then a payment of \$30,370 in October of 1980, and
13 yet another interest payment in November of 1980.

14 THE WITNESS: Okay. Well, then that's
15 probably what happened. Then he did pay \$30,000 on
16 the note, but it was after I was gone. But I remember
17 giving them -- my memory was that the paid a portion
18 of the principal and then paid the remaining portion
19 of it at a later time, or were going to pay a portion
20 of it at a later time.

21 BY MR. GICALE:

22 Q Well, did they make interest payments in

1 the first year?

2 A Yes. Oh, yes.

3 Q They did?

4 A In the first year --

5 Q The \$18,000.

6 A Yes. Yes. In the first year, if my memory
7 serves me correctly on this, is that -- and each one
8 of them wrote their own pro-rata portion of the check
9 that came in. I mean, we'd get a check from Mr.
10 Clinton and we'd get a check from Mr. McDougal,
11 because the loan was in their individual names.

12 Q So your recollection is that they did make
13 the payments of interest during the first year and
14 then they made -- and it's also your recollection
15 that they made some payments of interest in the
16 second year, or all?

17 A Yes, they made all of them. They made all
18 of them.

19 When I was there, they made all of their
20 interest payments. They may have been a few days late
21 on their payment date, but they were all made.

22 MR. COLE: Did they make principal

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1 payments during the second year?

2 THE WITNESS: No, they didn't. The second
3 year of the loan, 1979 to 1980, they did not make a
4 principal payment until the loan matured. And I told
5 them that before we would renew the loan, they had to
6 pay the full \$18,000.

7 MR. COLE: So that would explain why the
8 extension and modification agreement that I have
9 that's dated August 5th, 1980, document number
10 DKRT800529, indicates, the undersigned agree to pay
11 the obligation of \$182,611.20, which is the same as
12 the amount of the original note in 1978.

13 THE WITNESS: That's right.

14 MR. COLE: So that would indicate that
15 they had paid their interest, but had made no
16 principal reductions during that period.

17 THE WITNESS: That is absolutely correct.

18 BY MR. GICALE:

19 Q Okay. And that document that he was just
20 referring to, that extends the loan to August 5th,
21 1981.

22 A That would extend the loan to --

1 Q One more year.

2 A One more year. Yes, you're right. You're
3 right.

4 Q Okay. And earlier, my statement was
5 incorrect. There is proof of a payment of \$10,130.58
6 in December of '78.

7 Do you recall that?

8 A Mr. Gicale, I'm -- I didn't understand
9 what you said there.

10 What was that?

11 Q There may be some proof of a payment of
12 \$10,130.58 in December of '78.

13 Do you recall whether or not that was the
14 case, a payment by the Clintons?

15 A In 1978?

16 Q Yes.

17 A No. They didn't pay any principal.

18 Q I'm talking about interest.

19 A Oh, yes. They paid interest in '78 to '79,
20 the timeframe of the note, and they both paid
21 interest in the '79 to '80 timeframe.

22 MR. COLE: Am I correct in understanding,

1 Mr. Burge, that the August 5th, 1980, extension and
2 modification agreement indicates an outstanding
3 indebtedness of \$182,611.20, the same as the amount
4 of the original note?

5 THE WITNESS: That is the amount of the
6 original note.

7 MR. COLE: That means that they have paid
8 their interest, but have not made any principal
9 reductions.

10 THE WITNESS: You are correct.

11 MR. COLE: If they had not made their full
12 interest payments, I would assume that you would add
13 that amount on to their note agreement at that time.

14 THE WITNESS: No, we wouldn't have done
15 that because that's a violation. You can't capitalize
16 interest back into a note. The jargon in the business
17 is called "round-tripping the credit."

18 You can't add the interest back to the
19 note.

20 MR. COLE: You've just demonstrated that
21 I'm not a banking lawyer.

22 THE WITNESS: Okay. All right. But that's

1 basically -- that loan would not have been extended
2 without the payment of the full amount of accrued
3 interest for that year.

4 BY MR. GICALE:

5 Q But, in any event, based on the agreement
6 the prior year, they had not reduced principal ten
7 percent.

8 So you gave them some type of --

9 A Moratorium.

10 Q Moratorium on that.

11 A They had asked and if I remember
12 correctly, and you said that it was \$30,000 that came
13 in October. I was under the impression that they
14 paid a portion of it. My memory was that they paid a
15 portion of it in September, the latter part of August
16 they paid a half of it, and then they paid the other
17 half sometime right after that.

18 But you said \$30,000.

19 Q When I say \$30,000, there was a sale of
20 the lot to Wade in October of '80. And you were gone
21 by then.

22 Right?

1 A Yes, that's right.

2 Q We've just learned. But --

3 A Hello?

4 Q Yes. But up to August 5th, 1980, and Mr.
5 Cole has indicated, they had not paid any principal
6 and they clearly, thus, had not reduced it by ten
7 percent, pursuant to their agreement.

8 A That's right.

9 Q Of the prior year.

10 A That's right.

11 Q And they had asked for some additional
12 time to pay the principal and you granted that.

13 A I granted that time.

14 Q Was there -- how much time did you grant
15 them?

16 A Well, you know, again, gentlemen, this is
17 quite sometime.

18 If I'm not mistaken, it was probably just
19 -- it was probably 30 days. I would have probably --
20 you're not real hard-nosed with the governor, now,
21 but I would say --

22 Q Did you talk to the governor about this?

1 A I couldn't remember. I probably did. I
2 know that at that time in 1980, the first time I
3 talked to McDougal, he wasn't real, real thrilled to
4 pay. He didn't want to pay anything.

5 If my memory serves me correctly, he
6 didn't want to pay anything.

7 Q You mean towards the principal or in the
8 interest?

9 A Towards the principal. And I just
10 basically told him that this note would not be
11 renewed, extended without the payment of the
12 principal.

13 MR. COLE: This was McDougal you were
14 speaking with.

15 THE WITNESS: I was speaking to Mr.
16 McDougal.

17 BY MR. GICALE:

18 Q Despite the fact that you had an agreement
19 for the prior year, why didn't he want to pay
20 principal?

21 A Guys, I'm going to tell you. Things were
22 going -- the economy was worsening every day.

1 Interest rates were creeping up in that 16, 17
2 percent range. If you remember, later on in 1980, the
3 prime rate got to 21 percent.

4 In Arkansas, we were capped by a usury
5 limit. Generally, it is extremely difficult to try to
6 sell real estate on a conditional sales contract at
7 ten percent while you're paying 21 to carry the land.

8 And so, they just couldn't sell it. They
9 just couldn't sell the property.

10 I was sympathetic to what Mr. McDougal was
11 trying to present and the way things were worsening
12 for them and I felt bad. But I had made a commitment
13 to the correspondent bank that we were doing business
14 with there, Union National Bank, that we would put
15 this loan on an amortizing basis.

16 We had to have our principal. We just had
17 to.

18 Q Okay. So they made it clear to you, and
19 you knew based on other deals that you were familiar
20 with, that they weren't selling lots at that point in
21 time.

22 A Oh, no. No. Nothing was selling then. The

1 entire local economy had come to a standstill.

2 Q Or at least not enough lots to pay off
3 principal.

4 A Pardon?

5 Q Or at least not enough lots to pay off
6 principal.

7 A Well, you know, again, this was basically
8 --reflects back on us. It was a bad underwriting
9 decision when the loan was made because right down
10 there in that pocket of this Ranchettes was this 3000
11 acres and everybody else was trying to do exactly
12 what the Clintons were.

13 Q Okay.

14 A And you had this enormous inventory of
15 lots sitting there. You just couldn't sell.

16 Q So you gave them, despite McDougal's
17 pleas, you gave them approximately 30 days to come up
18 with the ten percent.

19 A Exactly. I gave them a moratorium of time
20 in which I would renew the note subject to them
21 making this principal payment.

22 And like I said, my memory is something

1 that they paid half of the principal and I gave them
2 like 30 or 60 days to get the rest of the principal
3 in.

4 Q Now what's a little confusing here is the
5 extension agreement is dated August 5th, 1980.

6 Did you sign this extension agreement
7 before you gave them the 30 days, or how did that
8 work? The next agreement that we have is, I believe
9 -- the next extension agreement is in '81, although
10 there is an agreement dated August 21st, 1980, an
11 affidavit.

12 MR. COLE: Yes, I wanted to ask him about
13 that because I don't think that's an agreement. I
14 just want to ask him what it is.

15 BY MR. GICALE:

16 Q Let me describe it to you. We both have a
17 question about it. And I wonder if this is -- well,
18 you tell us how this came about.

19 There is an affidavit and it says, The
20 undersigned, being first duly sworn, deposes and
21 states, having applied to Citizens Bank and Trust
22 Company, Flippin, Arkansas, for a loan of

1 \$182,611.20, and as an inducement to the bank to make
2 said loan on the day hereof at the rate of 11 percent
3 per annum, I hereby represent and warrant that the
4 proceeds of this loan will be used for business (or
5 agricultural) purposes, a brief description of which
6 is: the attached description of real estate in Marion
7 County, Arkansas containing 230.24 acres, more or
8 less.

9 I don't know that I need to read the rest
10 of the paragraphs.

11 MR. COLE: Well --

12 THE WITNESS: I know what that is.

13 MR. COLE: I think he can tell you what it
14 is. I think I know what it is, but he's the witness.

15 THE WITNESS: That right there, and
16 Arkansas was under the restrictive usury ceiling of
17 ten percent, as per I told you about the constitution
18 in 1974.

19 MR. GICALE: Right.

20 THE WITNESS: The Brock bill in Congress
21 had been passed, Senator Brock of Tennessee. And
22 basically what it did, it was a bill that was written

1 specifically for the State of Tennessee and Arkansas
2 which allowed us to charge interest in excess of our
3 state usury caps. And it had a sunset provision in it
4 of two years.

5 BY MR. GICALE:

6 Q Okay.

7 A And if my memory again serves me
8 correctly, that's what we had to get every borrower
9 to sign in order to let us charge them in excess of
10 ten-percent interest.

11 Q All right. So this had nothing to do with
12 this principal reduction issue.

13 A No, it had nothing to do with it. It was
14 paper. It was a legal document to paper the file in
15 order to protect us against a usury lawsuit.

16 MR. COLE: And this documents,
17 particularly in Item 3 of this document, that this is
18 a business loan.

19 It says -- I understand fully that this
20 loan is a business (or agricultural) loan within the
21 meaning of federal law permitting the charging of
22 interest in excess of ten percent.

1 THE WITNESS: That is absolutely correct.

2 That is absolutely correct. The Brock bill did
3 nothing to supersede personal-type loans or consumer-
4 type credits.

5 MR. GICALE: Okay.

6 MR. COLE: So this document is nothing
7 special to do with the McDougals or Clintons or their
8 situation. It's a standard form that you need.

9 THE WITNESS: Standard form that we used
10 with every borrower.

11 BY MR. GICALE:

12 Q Okay. Then going back to my original
13 question, the extension agreement was signed and
14 dated August 5th, '80, extending it to August 5th,
15 '81.

16 But when was the 30-day moratorium
17 effective?

18 A It was effective from the time of the
19 August 5th, 1980 extension date. I gave them a
20 moratorium of like 30 days to make that principal
21 payment.

22 Q Now was that --

1 A I said thirty. It could have been sixty,
2 you know.

3 Q Was that written some place, because it
4 appears as though you wrote up the extension for a
5 year with some informal understanding that they would
6 pay principal within 30 or 60 days?

7 A Well, again, if my memory serves me
8 purposefully, it was probably a gentleman's agreement
9 that I would give them that much time and do it.

10 I don't remember if I did prepare a
11 separate addendum to that extension to recite that
12 agreement.

13 Q And so your recollection is that some
14 principal was paid before you left the bank in
15 September of '80?

16 A That's right, some principal was paid. And
17 if I'm not mistaken, half of it was paid. And I don't
18 remember who paid that half. I don't know if it was
19 Clinton or it was McDougal that paid that half.

20 But one of them paid half of it.

21 Q Okay. Now, did you have any other,
22 anything else to do with this loan after you left the

1 bank?

2 A Oh, no. I left that bank and I took a
3 position in a bank in Dallas, Texas. I stayed in
4 Texas for a few years and came back as president of
5 the bank in Arkansas for ten.

6 Q Who succeeded you with the responsibility
7 for monitoring this loan? Who was your successor?

8 A There was a gentleman by the name of
9 Robert, Bob Ritter -- R-i-t-t-e-r.

10 Q Is that two Ts?

11 A Pardon?

12 Q R-i-t-t-e-r?

13 A R-i-t-t-e-r.

14 Q Okay.

15 A Mr Ritter was a banker who the board had
16 hired from Illinois. And I think he came in and
17 stayed a year or two and then I think that he left,
18 either on his own accord or through a mutual
19 understanding or whatever, and went back to Illinois.

20 After that, I think they've had -- they've
21 had so many presidents of that bank, it's
22 unbelievable.

1 They've had a ton of them.

2 Q But -- well, you don't -- do you know
3 whether the president -- it was a small bank, so,
4 presumably, the president of the bank --

5 A He handled it. The president -- I handled
6 basically most of the credits in the bank.

7 MR. COLE: Lou, I think we can assume that
8 the president of the bank handled the governor's
9 loans.

10 THE WITNESS: That's right.

11 MR. GICALE: Okay.

12 THE WITNESS: You wouldn't hand that off
13 to a rookie.

14 MR. GICALE: Okay. All right.

15 MR. COLE: Even in New York, probably,
16 Lou, the president of the bank handles the governor's
17 loans.

18 THE WITNESS: Even New York would handle
19 the governor's loans. I know that.

20 MR. COLE: Lou's from New York.

21 MR. GICALE: I wouldn't know.

22 (Laughter.)

1 BY MR. GICALE:

2 Q All right. So do you recall any other
3 involvement with this loan from the time in '78, when
4 we first started to discuss it, to September 30th,
5 '80, when you left?

6 A No. I left on basically -- I was ready to
7 get out of there and move on to another plateau of my
8 career.

9 Q Okay. Now just to go back a little, in
10 '78, when Wade introduced you to McDougal and
11 McDougal told you he was going to bring the Clintons
12 into this deal, did you receive pressure from anybody
13 else to grant this loan to the Clintons or McDougals?

14 A No. No, not at all. That loan was
15 basically as it looked. It was pure and simple, a
16 development loan. It had all the elements of risk
17 associated with it and no person called me or, to my
18 knowledge, any other director, and put an undue
19 influence on them to support and vote for that that
20 it could be extended.

21 Q Now the other seven or eight projects or
22 loans and sales that occurred on the same date, those

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1 were for smaller amounts. I think you said \$70,000 or
2 \$80,000.

3 A Yes, they were. They're smaller amounts.
4 They go anywhere from \$75,000 to \$100,000.

5 Q Were those on similar terms and did those
6 projects have the same kinds of problems?

7 A They sure did. To my knowledge, after that
8 period of rising interest rates when the economy went
9 soft and inflation was speeding up around 13.3
10 percent, and I remember that specifically because
11 that was August. The CPI in 1980 was 13.3 percent.

12 People just -- they were falling by the
13 wayside. And we had to basically restructure a lot of
14 debt for our customers.

15 MR. COLE: Did any of the other seven or
16 eight loans have to be restructured or go into
17 default?

18 THE WITNESS: To the best of my knowledge,
19 none of those loans went into default.

20 MR. COLE: Did loans on similar projects
21 that your bank made go into default while you were
22 there?

1 THE WITNESS: We did not have any loans
2 that go into default.

3 MR. COLE: You must have done a good job
4 then.

5 THE WITNESS: Well, we were fortunate. We
6 were very fortunate.

7 BY MR. GICALE:

8 Q But when I said to you, were they on
9 similar terms, were they the six-month-notice-
10 required type demand notes?

11 A Yes. And we put a lot of them on an
12 amortizing basis just to make sure that the
13 regulators wouldn't criticize them.

14 If you have a development loan and it goes
15 past a certain time period for the sell-out, your
16 regulators will criticize that loan, not unless you
17 put some other type of safeguard in there, which they
18 pay and amortize it on an amortizing basis.

19 Q Was there a time period for the sell-out
20 of this?

21 A Well, to be quite candid with you, most of
22 those sell-outs were taking place in two or three

1 years back then.

2 From the time that you bought a piece of
3 land and subdivided it, you were selling out in two
4 or three years.

5 Q But I mean did you have to make some kind
6 of determination at the time of the loan that they
7 would sell out in three years?

8 A Oh, yes, you have to. You'd best because
9 if you don't, the owed interest, the accrued interest
10 will continue to eat into the profitability index.

11 Q Well, when you said that you would be
12 criticized by the regulators if it went beyond three
13 years, was there some kind of rule or regulation that
14 said that --

15 A No, not at that time. There wasn't a rule
16 or regulation at that time. I'm just saying that
17 generally accepted banking practices on development
18 loans like that, raw land development loans, were
19 usually two- or three-year sell-outs.

20 And I read some place in the paper where
21 the Clintons said that they lost money on that. They
22 lost money. They had to. There's no way in God's

1 green earth you can carry a piece of property that
2 long and pay the carry-on, the interest on it, and
3 make any money.

4 They lost money. They had to lose a ton of
5 money. There's just no way that they can make money.
6 No way.

7 Q Well, you don't know who --

8 A I don't know that. That's just what I read
9 in the paper.

10 Q Right. You don't know who was paying the
11 interest.

12 A Again, I don't know who was paying the
13 interest.

14 Q I mean, actually, you do know about some
15 payments up until 1980.

16 A Up until September the 30th, 1980, I can
17 tell you what I've just told you right there. I can
18 just tell you what the facts are.

19 I've been in this business 25 years, so --
20

21 Q Okay. Have you been contacted by anyone
22 from the White House or anybody on behalf of the

1 President and his wife?

2 A No. I never -- I haven't. And that's
3 God's truth.

4 Q Okay. Do you remember any other
5 conversations with Mr. Clinton or Mrs. Clinton after
6 the closing and after the article came out in the
7 newspaper about the loan?

8 A You mean the one I told you about that was
9 the one --

10 Q The article that occurred just after the
11 election.

12 A No. I talked to the governor on maybe one
13 or two occasions. That was it.

14 Q You may have talked to him about paying
15 off the principal and the moratorium.

16 Correct?

17 A Yes.

18 Q Do you remember any other conversations
19 with him or his wife or their representative?

20 A No. My business dealings with them were
21 purely professional and business.

22 MR. GICALE: I have nothing further at

1 this time.
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1 EVENING SESSION

(6:00 p.m.)

2
3 EXAMINATION

4 BY MR. COLE:

5 Q Mr. Burge, I do have a few more questions.
6 I apologize because I know you've been on the
7 telephone a long time. But if you could bear with me
8 for just a short time longer, there are some things
9 that I'd like to cover.

10 A Okay.

11 Q And as we explained to you before, the way
12 our process works here is one side asks questions and
13 even though Mr. Gicale let me interrupt him a lot, in
14 general, my questions come after his.

15 It would helpful to me in understanding
16 what happened here if we tried to put this in context
17 a little bit with regard to what was going on in
18 northern Arkansas real estate development in the mid-
19 to late 1970s.

20 And my specific question to you is, at
21 that time in that area where you were in the banking
22 business, were people making money on deals like the

1 one that the Clintons and McDougals entered into?

2 A Absolutely. Lots of people were making
3 money off of it.

4 Q And the kind of financing that you
5 provided in this transaction -- and by that I mean
6 what you referred to as a development loan on a six-
7 month demand basis -- was that typical of the kind of
8 loans that you were making to borrowers at the time?

9 A That was typical of the type of loans that
10 we were making to the borrowers, yes.

11 Q And what was the purpose of making that
12 particular kind of loan in terms of the timing?

13 A Well, one thing, it had a high
14 profitability index to the bank because we utilized
15 it as a way that we were introduced to new customers
16 because usually, the people that bought those tracts
17 of land lived in other states. We could get other
18 account relationships with them.

19 A Typically, when they got ready to move,
20 they bought them for pre-retirement homes, if they
21 came, they were going to come there and let us build
22 their home for them and we do all the financing.

1 We saw it as an excellent way to lead into
2 future business. Whether we cultivated that business
3 in six months or it was two or three years down the
4 road, or ten years down the road, it was a form of
5 cultivating future business.

6 Q So this was good business for the bank, in
7 other words.

8 A Oh, yes. Lending money is always good
9 business for a bank.

10 Q I'm aware of that from being on the other
11 side.

12 In making the kind of loans that we're
13 talking about here, development loans, essentially to
14 take raw land, subdivide it, and resell it, is the
15 track record of the developer an important
16 consideration to the banker who's considering making
17 the loan?

18 A One more time, please?

19 Q Is the track record of the developer who's
20 going to be borrowing the money from you important to
21 the banker who's going to be making the loan?

22 A Oh, absolutely because if he failed on the

1 last one or the one before that, you don't do
2 business with him.

3 Mr. McDougal had had some early success in
4 doing just what he and Mr. Clinton were trying to
5 accomplish.

6 Q And you had personal knowledge of that at
7 the time you recommended this loan be made.

8 A Yes, I did. Yes, I did.

9 Q And did you understand that Mr. Wade was
10 going to play a role in this transition and the
11 development and resales of these properties?

12 A Oh, yes. Yes, absolutely.

13 Q And what was his experience and track
14 record at the time?

15 A Well, that's what Chris did. Chris went
16 out and bought large tracts of land and went and
17 found people who had cash reserves. They would go in
18 and acquire the land, subdivide it, sell it off into
19 small tracts and contract for deed and carry the
20 paper, and basically receive a very, very handsome
21 return.

22 Mr. Wade did quite well personally in

1 doing that. And he had probably the area's leading
2 hands-on expertise in doing those type of credits.

3 Unfortunately, you can't sell something
4 that it doesn't have the market for. I don't care how
5 good a salesman you are.

6 Q But at least at the time this loan was
7 made in 1978, the market was there, if I understand
8 your testimony.

9 A Yes. The market was there. The market was
10 there.

11 Q And you've testified that you did an
12 analysis or appraisal yourself of this property and
13 looked at that as a factor when you were deciding
14 whether or not to make this loan.

15 A That's right.

16 Q And the result of your analysis was that
17 the value of this property was sufficient to support
18 a loan in the amount that you were making.

19 Is that correct?

20 A That's correct.

21 Q And a second factor you looked at was Mr.
22 McDougal's track record and your experience with him.

1 A Well, not so much of my direct experience,
2 but some of the experiences that I had seen him enjoy
3 with Mr. Wade, also.

4 Q I'm sorry. I thought you had testified
5 that you had made a loan to him.

6 A We had made loans with him before. I take
7 that back. You said on numerous occasions and I
8 couldn't remember just one or two or whatever. But I
9 do remember one.

10 Q And I take it, then, with respect to Mr.
11 Wade, that you had had on numerous occasions made
12 loans to him or ventures that he was involved in.

13 A We lent Chris Wade tons of money, tons of
14 money.

15 Q And had he ever defaulted on one of the
16 loans your bank had made to him at that time?

17 A Never.

18 Q And had Mr. McDougal ever defaulted on the
19 one or more loans that your bank had made to him?

20 A No, had not, did not.

21 Q And I think you testified to this
22 previously, but those factors alone would have

1 motivated you to make this loan, even if the governor
2 had not been involved.

3 Is that correct?

4 A That is correct.

5 Q But you also testified, and I understand
6 that the fact that you were making a loan to the new
7 governor didn't hurt here.

8 A That's exactly correct.

9 Q So it was another positive factor in the
10 mix.

11 A It was.

12 Q And to put this in layman's terms, another
13 way of saying what you've already testified to, this
14 was not a sweetheart deal for the Clintons and the
15 McDougals.

16 The terms that they got, the conditions of
17 the loan, were the same as you were making to other
18 borrowers at that time.

19 A Yes, sir, that's correct. They were the
20 exact same terms we made to every borrower.

21 Q And what was the primary expectation you
22 had in terms of the source of funds for repayment of

1 this loan at the time you made the loan, before you
2 realized anything about interest rate changes or what
3 happened subsequently that you testified to?

4 A The primary source of repayment of that
5 loan was the sale of the tracts of land under
6 development.

7 Q And had you made other loans with that
8 similar expectation?

9 A Yes.

10 Q So this wasn't any different from other
11 loans you had made.

12 A Nuh uh.

13 Q And you mentioned something called
14 conditional lot sales.

15 A Conditional -- well, what they were
16 called, they were called land sale contracts. They
17 were conditional contracts predicated on the fact
18 that you entered into an agreement that you would pay
19 a developer or an individual a sum certain every
20 month and at the conclusion of the discharge of the
21 agreement, the payment in full, that the owner would
22 then give you a warranty deed deeding the property to

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1 you fee-simple and that you would own the property.

2 Up to that point in time, you would not
3 own the property. You would just have a piece of
4 paper that would allow you a right to that property
5 upon fulfilling the contract.

6 Q So if I'm understanding you correctly, the
7 buyer of the property who would purchase it from the
8 developer would not actually take title to the
9 property until they had paid off the debt in its
10 entirety.

11 A That's right.

12 Q And how long a time period were those
13 contracts normally structured for?

14 A Well, sometimes it's structured for five
15 years. But most of the time, they were somewhere
16 around the neighborhood of ten.

17 Q So for five to ten years, the buyer of the
18 lot would make payments to the developer but would
19 not have title to the property?

20 A That's right. That's right.

21 Q And since the buyer of the lot did not
22 have title, if they failed to perform, the developer

1 would not have to foreclose.

2 A He would just cancel the contract by
3 simple letter and he would cancel the contract.

4 Q And would the developer who had sold the
5 lot be able to retain all the monies that he had
6 collected up to that point?

7 A Yes, he could retain all the monies.

8 Q And he would be able to -- he would also
9 get the property back.

10 A That's right.

11 Q And could he then --

12 A Well, he never gave it up.

13 Q Exactly. And he could turn around and
14 sell it again, even though he had collected monies in
15 the interim period.

16 A And Mr. Wade did that quite often.

17 Q You're getting to my point. Up until that
18 point in time, that had been good business in that
19 part of the country?

20 A That had been a standard business for most
21 realtors.

22 Q And that kind of arrangement was what you

1 were looking to for repayment of this loan,
2 primarily.

3 A Right, to sell the property and the
4 subsequent assignment of the conditional sales
5 contracts, or land sale contracts.

6 Q Now in terms of the obligations of the
7 Clintons and the McDougals to your bank, with the
8 moratoriums and grace periods -- that's my language,
9 not yours -- that you testified to here, during the
10 time period that you were at the bank, those
11 obligations were met.

12 Is that correct?

13 A That is correct.

14 Q And you testified that you had discussions
15 with Governor Clinton about his obligations to make
16 payments to the bank.

17 A Yes.

18 Q And did he meet the obligations that you
19 discussed with him?

20 A Yes.

21 Q Did he ever ask you to look to the
22 McDougals and not to him on the repayment of the

1 interest and principal that was owed?

2 A No, he never asked that.

3 Q So he never indicated to you that he
4 wanted McDougal to carry his load for him, in other
5 words.

6 A He never asked that.

7 Q And you testified that you recalled the
8 closing of this loan fairly well?

9 A Well, you know, a lot of things went under
10 the bridge since then. But I was an impressional
11 young man and I was meeting the governor of Arkansas.
12 It was the largest real estate transaction in the
13 history of the county.

14 I remembered it.

15 Q Where did the closing take place?

16 A Destin Bank. I mean -- excuse me --
17 Citizens Bank and Trust.

18 Q In Flippin, Arkansas?

19 A Flippin, Arkansas. All of them were closed
20 there.

21 Q And so, there were simultaneous closings
22 of all of the 11 purchases from 101 River Development

1 Corporation?

2 A Correct.

3 Q And they all took place at that bank, even
4 though you only made loans on seven or eight of them?

5 A Yes. Well, there was another bank, I
6 believe, that made one or two loans. But they were
7 closing that bank and the checks were brought there
8 so they could do the wire-out because those funds had
9 to be wired to the federal bankruptcy court in
10 Oklahoma City.

11 Q And so that was done through your bank?

12 A Yes. Yes, it was done through our bank or
13 through Union National Bank in Little Rock.

14 Q Did Mrs. Clinton attend the closing?

15 A To my knowledge, she was there.

16 Q She was there? That's your recollection?

17 A Uh huh.

18 Q Did Mrs. McDougal attend the closing?

19 A She was there.

20 Q So both the Clintons and the McDougals
21 were there and signed the loan documents in person?

22 A Yes. That's the only way we closed loans

1 back in those days. We never did mail-outs. You
2 always had to sign in the presence of one of these --
3 of myself or Mr. Patterson.

4 Q You've testified to your discussions with
5 Governor Clinton after the loan was closed. Did you
6 have subsequent discussions with Mrs. Clinton after
7 the closing of the loan?

8 A I have never talked to Mrs. Clinton one
9 day. I don't think that the time I've ever talked to
10 her was a passing or courtesy of how are you, and
11 that was it.

12 Q Is there anything else that we haven't
13 covered about this transaction that, in order to have
14 a complete record here, we should be told?

15 A I think you gentlemen asked all the
16 questions and I've led you up to everything that I
17 know to be truthful.

18 MR. COLE: I don't have anything further.
19 I suspect Mr. Gicale may have a question or two for
20 you.

21 THE WITNESS: Okay.

22 MR. GICALE: Just one.

1 THE WITNESS: Okay.

2 MR. COLE: He never lets me have the last
3 word.

4 THE WITNESS: Well, my ear's starting to
5 hurt, guys.

6 MR. COLE: I can imagine.

7 THE WITNESS: Okay.

8 EXAMINATION

9 BY MR. GICALE:

10 Q Earlier, when Mr. Cole said to you, asked
11 you whether or not this was a typical loan during
12 that time period, you're not suggesting that it was a
13 typical loan for something making \$10,000 a year in
14 income, were you?

15 A Oh, no. No. I'm sorry. I didn't mean to
16 mislead you to that statement.

17 You're correct. That was not a typical
18 loan for someone making \$10,000 a year.

19 MR. GICALE: I have nothing further at
20 this point.

21 MR. COLE: Can we go off the record for
22 just a moment?

1 MR. GICALE: All right.

2 (Discussion off the record.)

3 BY MR. GICALE:

4 Q Mr. Burge, do you recall whether or not
5 you were informed that a corporation was ultimately
6 formed for this piece of land and --

7 A You're breaking up, Mr. Gicale.

8 Q I'm sorry. Do you recall whether or not
9 you were informed that a corporation was formed by
10 the McDougals?

11 A I wasn't informed. I found out about it.

12 Q How did you find out?

13 A By Mr. McDougal.

14 Q How did he come to tell you that?

15 A Well, he had basically requested that they
16 change the structure of the note from the individuals
17 to -- the structure of the name from the individuals
18 to the corporate name, in which I rejected that
19 proposal. I wanted to keep the name in the personal
20 names of the individuals.

21 Q And did he tell you the corporate name was
22 going to be Whitewater?

1 A Yes.

2 Q And was that in 1979?

3 A Yes.

4 Q Was that the end of your discussion about
5 that change?

6 A Yes.

7 MR. COLE: Was that at or about the time
8 in August when you sent them the letter with the new
9 agreement for ten-percent principal reduction per
10 year?

11 THE WITNESS: That was about the time.
12 That was about the time. How I found out is that we
13 used to get copies of information of new corporations
14 filed. I had seen something pertaining to that new
15 corporation.

16 BY MR. GICALE:

17 Q And you asked him about it or he
18 approached you first?

19 A Well, again, like I said, I think that he
20 approached me. But I found out about it at the same
21 time. That's when I asked him when the transaction
22 took place, and I asked him to send the bank copies

1 of the articles of incorporation and bylaws so that
2 we could have them on hand.

3 But I did not -- but I do remember Mr.
4 McDougal requesting that the note be changed from a
5 personal type of loan into a corporate environment
6 and I rejected that request.

7 And our mortgages at that time didn't have
8 a due-on-sale. So when the transfer took place, we
9 didn't do anything.

10 MR. COLE: So what Mr. McDougal was
11 proposing, Mr. Burge, was that the personal liability
12 of the Clintons and McDougals be extinguished and
13 liability by a new corporation substituted?

14 THE WITNESS: Well, yes. But he knew also
15 that, because it was a one-asset corporation, and
16 basically, at that point in time, a nonearning asset
17 corporation, that they would have to still personally
18 guarantee the note.

19 I just didn't want to go through all the
20 paperwork of changing over because the dollars were
21 still going to remain the same. The repayment terms
22 were going to remain the same. And the legal shield

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1 for liability purposes for the corporation had
2 already been formed and filed.

3 So it really didn't make that much
4 difference.

5 MR. COLE: One more question. But if you
6 had transferred the notes to the corporation and not
7 required personal guarantees from the Clintons and
8 the McDougals, they would have been relieved of any
9 personal liability.

10 Is that correct?

11 THE WITNESS: That is absolutely correct.

12 MR. COLE: And you chose not to do that.

13 THE WITNESS: I chose not to do that.

14 MR. COLE: So you could have let the
15 governor off the hook entirely here if you had wanted
16 to, and you didn't do that, to let the governor off
17 the hook entirely as to personal liability, I mean.

18 THE WITNESS: I had that opportunity, yes.
19 And I chose not to.

20 BY MR. GICALE:

21 Q Just on a question about the Union Bank
22 loan. Now you asked them to participate and that was

1 early on. But when did you find out about the down
2 payment coming from Union Bank as well?

3 A Seriously, about a year and a half ago
4 when I was reading it in the newspapers.

5 Q So that's the first time you learned of
6 that.

7 A That's the first time I ever knew of that.

8 MR. GICALE: I have nothing further.

9 MR. COLE: I don't have anything further.

10 Mr. Burge, we appreciate your time. I know
11 this has been a long telephone call.

12 MR. GICALE: Off the record.

13

14 (Whereupon, at 6:13 p.m., the taking of
15 the deposition was concluded.)

16

17

18

19

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21

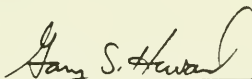
22

FRANK B. BURGE

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, GARY S. HOWARD, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires NOVEMBER 14, 2000

**DEPOSITION OF MORT G. HARDWICKE
IN RE: S. RES. 120**

THURSDAY, FEBRUARY 15, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MORT G. HARDWICKE, called for examination pursuant to notice of deposition, at 1:00 p.m. in Room 640-A of the Hart Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.

Majority Associate Special Counsel

JAMES S. PORTNOY, Esq.

Minority Associate Special Counsel

DAVID M. LUNA, Esq.

Minority Law Clerk

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

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P R O C E E D I N G S

MR. O'CALLAGHAN: Good morning, Mr. Hardwicke. My name is Michael O'Callaghan. I am associate special counsel for the Majority of the Special Committee. With me is Jim Portnoy who is associate special counsel for the Minority. And to your left is --

MR. PORTNOY: David Luna, counsel for the Minority.

MR. O'CALLAGHAN: This is a deposition conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority and other related matters. And those subjects will be the main focus of today's deposition.

This deposition is in advance of public hearings which will likely occur this month, and

4

there is a chance you will be asked to testify at those hearings. We will ask you a series of questions today and you are -- we will ask you to testify under oath.

If you don't understand a question, let me or Mr. Portnoy know and we will be happy to rephrase them. If you need a break, also let us know. We will be happy to take a break.

The stenographer is preparing a record of questions and answers. The deposition will be treated as committee confidential until the commencement of the hearings.

You will also be -- after the deposition, be provided with a copy of your transcript and an errata sheet to make any corrections you feel are necessary and also to review before public hearings in the event you are called to testify.

MR. HARDWICKE: Okay.

MR. O'CALLAGHAN: You may be represented by counsel. Are you represented by counsel today?

MR. HARDWICKE: No.

MR. O'CALLAGHAN: You are aware that you

1 have the option of being represented by counsel
2 today?

3 MR. HARDWICKE: Yes.

4 MR. O'CALLAGHAN: Objections to the form of
5 questions will be noted for the record. You may --
6 any objections on the basis of privilege or relevance
7 may be made, and the Committee Chairman will rule on
8 objections when the witness refuses to answer a
9 question.

10 Could you please swear the witness.

11 Whereupon,

12 MORT G. HARDWICKE

13 was called as a witness and, having first been duly
14 sworn, was examined and testified as follows:

15 EXAMINATION

16 BY MR. O'CALLAGHAN:

17 Q Could you please state and spell your full
18 name for the record.

19 A Spell my whole name?

20 Q Yes.

21 A Mort G. Hardwicke, H-a-r-d-w-i-c-k-e.

22 She's got it written down already.

1 Q Okay. Are you aware of the Committee's
2 document request with respect to the activity of the
3 Arkansas Housing Development Agency and the Arkansas
4 Development Finance Authority?

5 A Not -- I went off the board when they
6 changed the name to Arkansas Development Finance
7 Authority in '86. I went on in '80 when it was
8 Arkansas Housing Development Agency. I served six or
9 seven years. That's 16 or 17 years ago.

10 Q Are you aware of any document requests that
11 were made to Development Finance Authority by the
12 committee, request for documents that we made?

13 A No, I am not familiar with anything that's
14 transpired since I went off the board.

15 Q Have you spoken to anyone prior to this
16 deposition about the deposition?

17 A Yes, I called Linda Trent, Linda Chandler
18 now, to find out Mark Hendrickson's name and where he
19 was -- he used to be the director when I went on --
20 and I figured that someone in her position could
21 answer your questions a lot better than I could.

22 Q Who is Linda Trent?

1 A Her name is Chandler now. She was deputy
2 director from '89 to -- '79 to '83, that's right.

3 Q Who took her spot? Who succeeded her? Did
4 you say Mark Hendrickson?

5 A She went with Lomas & Nettleton in a much
6 better job, and Mark Hendrickson left and went to
7 Florida with a much better job, and I don't know who
8 took her place as deputy director.

9 Q But did she eventually become director?

10 A No. She tried to be and Frank White was
11 elected governor at the time, and he put his man in
12 there.

13 Q Mr. Hendrickson at one time was the
14 director?

15 A Yes, when the agency -- he was the first
16 director. David Pryor, Governor Pryor, started the
17 legislation that created the Arkansas Housing
18 Development.

19 Q Did you talk to Mr. Hendrickson about the
20 deposition?

21 A No, I have not.

22 Q What conversation did you have with

1 Ms. Chandler?

2 A Somebody came to her. She works in Pine
3 Bluff and got her deposition down there. She didn't
4 have to come up here, so she has given a deposition.

5 Q Did you talk to her about this deposition
6 today?

7 A I told her that I was being -- I told her I
8 would come if I was subpoenaed, that I didn't want to
9 come, but she said they came down there and took her
10 deposition.

11 Q When you say "they," who are you referring
12 to, do you know?

13 A She told me a name and I didn't get it.

14 Q Did you talk about what the potential
15 subject of the deposition would be here today?

16 A Yes, I told her I was to be here today if
17 they subpoenaed me. And they did subpoena me, so I
18 am here.

19 Q Did you discuss what your possible
20 testimony would be today?

21 A No. I don't have anything to hide. You
22 know, after 16 years or 10 years, you -- you don't

1 remember quite the details. Go ahead.

2 Q Have you spoken to anyone -- with anyone at
3 the White House with regard to this deposition today?

4 A Absolutely not.

5 Q Did you, other than speaking with
6 Ms. Trent, or Ms. Chandler, did you make -- do any
7 preparation work before coming in today, review any
8 documents?

9 A No. I didn't bring any documents.

10

11

12 Q Are you currently employed?

13 A No. I have been retired eight years, but I
14 do a little building and so forth.

15 Q Is that contracting or construction or --

16 A Well, I built a motel since I retired. And
17 I built a Dollar General Store last year and
18 remodeled two and tore down one.

19 Q Between the years 1980 and 1986, how were
20 you employed?

21 A In the furniture business.

22 Q Where is that located?

10

1 A Fourth and Highway 22, Paris, Arkansas.

2 Q What was the name of the business?

3 A Hardwicke Furniture and Appliance.

4 Q Were you president of that company?

5 A Sir?

6 Q Were you president of that company, or what
7 was that position?

8 A Well, I started on it, yes.

9 Q During that time period, did you serve any
10 boards or commissions?

11 A Just that one.

12 Q And what was the name of that?

13 A Arkansas Housing Development Agency.

14 Q You stated generally you believe you served
15 on that generally between 1980 and 1986?

16 A I went off when they changed it to Arkansas
17 Financial and Development.

18 Q Could that have been 1985?

19 A '86, I believe.

20 Q '86. Do you remember until what date you
21 served?

22 A What day?

1 Q The date you left or the month.

2 A Between -- no, I don't.

3 Q How did you come to serve on the board of
4 AHDA?

5 A Bill Clinton and I had been pretty close
6 friends for -- since 1974, and I supported him in
7 every election. And when he was elected governor,
8 and he said anything you want, I said yes, I would
9 like to serve on the AIDC, Arkansas Industrial
10 Development Commission. I thought I might be able to
11 get some interest in our little town, and he said
12 fine.

13 And after he took office, the girl called
14 me one day and said we've got an opening on the
15 Arkansas Housing Development Agency board, and Bill
16 wants you to take it. The banker in Booneville, a
17 president of a bank in Booneville had accepted it.
18 It was taking too much of his time and he resigned,
19 and Bill wanted me to take it. And I said no, I
20 didn't want the hassle.

21 He called back and said that he had a heavy
22 contributor, a big contributor, a contributor in

1 Osceola, and he was obligated to the AIDC position.
2 If I would take the Arkansas Housing Development
3 Board, he would change me later on if I didn't like
4 it. But it turned out to be one of the better boards
5 in the state.

6 Q So that was in 1980?

7 A In -- I can't say for sure. '79 or '80.
8 Whenever he -- I guess it was in '80 he took office,
9 did he?

10 Q First term of office?

11 A First term of office.

12 Q Was that when the authority was or agency
13 was first created, or had it already been --

14 A They only had a staff of about six when I
15 went on there, six or seven people, small. Then I
16 think they had only done one bond issue, I think 50
17 million, something like that.

18 Q How long was your term of office or term of
19 appointment the first time?

20 A Four years I guess.

21 Q So you served during Governor Clinton's
22 first term of office and also during --

1 A Frank White's term of office. His was two
2 years, Bill was two years. Bill got in when I was
3 reappointed and they changed the name of the
4 commission -- authority.

5 Q That was in 1983, 1984, probably '83?

6 A Well, it had to be -- I don't know when he
7 took office. Really. '80, I guess.

8 Q '80 is when you first went on and he
9 then --

10 A It was in two years, out two years, back in
11 for four.

12 Q While you were a board member of AHDA
13 and -- were you ever a board member when it was ADFA,
14 was there any lap over?

15 A That was afterwards, that's when I went off
16 the board, when they changed the name of it. Bill
17 called me one time and said how about Charlie Stout,
18 S-t-o-u-t, if he would be real upset if he didn't
19 reappoint him. And I called Charlie and he said he
20 couldn't serve anyway.

21 And I called Bill back and he said well, I
22 am in a tie down here, every legislator down here is

1 trying to name a new member to that board. I said if
2 you are in a tie you can have my position. I put in
3 six years, it takes a day or two days a month out of
4 my life. He said no, I will take care of my
5 friends. A month or two went by. He said I need
6 that board position, I said fine, it's yours to
7 give. That's it.

8 Q Could you briefly describe what your duties
9 were as an AHDA board member, as best you can?

10 A Just attend board meetings, work with the
11 staff any way we could.

12 Q And was the board involved in selecting
13 underwriting firms to do the bond offerings?

14 A Yes, they took bids and usually went by the
15 recommendations of the staff. They could do the
16 numbers and the board usually went along with the
17 staff.

18 Q Do you recall, were there times when the
19 board did not go along with the staff
20 recommendations?

21 A I can't remember that, no.

22 Q Do you remember if it ever happened or --

1 A I don't know that it ever happened. I
2 don't remember it.

3 Q Okay. With regard to when you were with
4 the AHDA, with regard to the single-family housing
5 bond underwritings the agency did, how were the
6 underwriters for that chosen?

7 A I guess by bids. Single-family and
8 multifamily both. Everybody submitted a proposal.
9 And the -- the staff would analyze it and make their
10 recommendation to the board and hash it out and go
11 with whichever one they thought would do the best
12 job.

13 Q Would the board make decisions on each
14 individual bond offering or was there a group of
15 underwriters chosen for each type of bond offering?

16 A I -- to the best of my knowledge, every
17 bond issue had a -- a lead underwriter. At the time
18 I went on, I think it was E.F. Hutton, and they went
19 under, whatever. Then they were getting 50 percent,
20 and most of the time it's Stephens and Raney
21 splitting 25 percent each. And they ended up
22 dividing it three ways. A third, a third, a third

1 instead of 50 going to the national underwriter.
2 Stephens Inc. was bidding enough to do the whole
3 thing themselves.

4 Q The bond underwriters you were referring
5 to, were there bids put on every underwriting or was
6 the underwriting given to those three generally at
7 the start of the session or --

8 A Well, it changed. Paine Webber did some
9 work, Merrill Lynch, different national underwriters,
10 but usually it was Raney and Stephens on the local
11 level.

12 Q How were they chosen?

13 A They always were there and did a good job,
14 as far as I know.

15 Q With regard to the -- I will ask you some
16 specific questions about the multifamily housing
17 underwritings.

18 Did there come a time in and around March
19 of 1983 when the development agency took bids from
20 different underwriters to choose a team of
21 underwriters to do the multifamily housing deals?

22 A In '83? I can't remember that at all.

1 Q Well, do you recall, was there a time when
2 the agency made a concerted effort to include more
3 underwriters than they had in the past?

4 A I think you pretty well -- if I remember
5 right, you always had an excess number of national
6 underwriters wanting to participate.

7 Q How about local underwriters?

8 A Well, you had -- there was four or five,
9 but Stephens -- Raney and Stephens were the two main
10 ones that did the bigger part of it.

11 Q I would like to show you a multipage
12 document that was produced to the committee. And
13 this may help us out in determining what firms were
14 involved and when they became involved and how the
15 process worked.

16 It is Bates stamped DKS N 026151 through
17 DKS N 026154. I hand you a copy of that.

18 It is a table that was produced to the
19 committee at Williams & Connolly and reads -- I will
20 read it while you are looking at it. I will identify
21 it for the court reporter.

22 A You are talking about '83 and '84?

1 Q I was earlier, yes, sir.

2 A Okay.

3 Q But if you just give me a moment, I will
4 identify it so we can refer to it later, if need be.

5 The title of it is "ADFA (and AHDA) use of
6 professional firms as underwriters and bond
7 counsel." And there is a chart set up with the
8 column that reads "period" in the far left and reads
9 "lead underwriters," in the next column, "other
10 underwriters and bond counsel." That's on the first
11 page. Second page, same demarcations on the columns,
12 with different time periods.

13 And I would like to note for the record,
14 for the period 1978 through -- there is one lead
15 underwriter listed, E.F. Hutton, 1979; 1980 there is
16 E.F. Hutton listed; 1981-82 E.F. Hutton & Company;
17 Stephens Inc., 1983-84.

18 A Other underwriters T.J. Raney, Stephens and
19 Baum.

20 Q Sir, where are you reading from for the
21 other underwriters?

22 A I'm -- I'm on page 3, in '79 to '80 and

1 then '81 to '82.

2 Q Okay, if you look -- we can go to page 3.
3 If you look at the column listed "other underwriters"
4 up until the period 1978 through 1982, there is no
5 more than three underwriters involved in any of the
6 underwritings, is that right, according to this
7 chart, which is Stephens and Raney, Merrill Lynch one
8 time and Baum one time?

9 A Yes.

10 Q The period 1983 through 1984, it reads
11 number one Baum, two T.J. Raney, three Stephens, four
12 Lasater plus seven other firms. Does that refresh
13 your recollection as to whether there came a time
14 when more underwriters were involved in the process,
15 or at least co-underwriters?

16 A Well, there was -- I guess everybody
17 participated in selling the bonds. Like on this page
18 right here, just look at the people who were involved
19 on page 2 in selling bonds.

20 Q That's 1985 through 1991 period; is that
21 right, the number 26 participants there?

22 A Yes.

20

1 Q I think it says that on the bottom.

2 My question is, did there come a time when
3 there was a more open, a more competitive bidding
4 process for local firms to try to get underwriting
5 contracts with the agency?

6 A I always thought it was just wide open to
7 anybody who wants to submit a bid.

8 Q Okay. Let me show you something else. As
9 far as you know, there wasn't a set group of
10 underwriters that was included every time; it was
11 open each time?

12 A No, as far as I know there wasn't. Hutton
13 did a lot of work there, I guess until they went
14 broke -- I don't know, broke or what.

15 Q But focusing on the co-underwriters,
16 co-managers, the local firms, was there a group of
17 them that was included in every process or was there
18 open competitive process? Did you vote on that every
19 time?

20 A I really couldn't answer that. It was
21 primarily Stephens and Raney and whoever the lead
22 national underwriter was. The bond counsel was

1 pretty well passed around to different firms.

2 Q Okay. Well, I have another document here I
3 would like to show you which may help or it may not,
4 I don't know.

5 I am handing you another multipage
6 document, which is minutes from the Arkansas Housing
7 Development Agency executive board meeting, March 16,
8 1983.

9 It is a five-page document --

10 A Here is Linda Trent. She's since remarried
11 and her name is Chandler now.

12 Q I am going to read a quick portion from
13 this. Where the second paragraph -- it identifies
14 "executive board members present were Charles Stout,
15 Mort Hardwicke, Mahlon Martin, M-a-h-l-o-n,
16 Martin" --

17 A He is dead now.

18 Q -- "and George Wright." And the "agency
19 staff present were Linda Trent, acting director;
20 Vivian Pugh, P-u-g-h, deputy director; Bill Wilson,
21 fiscal officer" --

22 A He is the director now, it is my

1 understanding, interim director.

2 Q -- "and Bernard Henry, multifamily housing
3 officer" --

4 A Sir.

5 Q I am reading.

6 A Excuse me.

7 Q That's all right. "Susan Young, single
8 family housing officer; Gary Arrington, management
9 representative; Randal Jones, planning specialist;
10 and Charlotte Sisson, purchasing agent."

11 Then it reads "others present were Patt
12 Greenlea and Ron Strother of Commercial National
13 Mortgage Company; Jeffrey Orum of Blyth Eastment
14 Paine Webber; Jim Carroll of Block Mortgage Company;
15 Michael Drake of Collins, Locke & Lasater; Gary Smith
16 of Merrill Lynch; Debra Wilson and Joel Buckner of
17 Worthen First Mortgage Company; Charles Henderson and
18 Bill Johnston of E.F. Hutton & Company, Inc.; Bob
19 Snider of T.J. Raney & Sons, Incorporated; James L.
20 Snowden of Guaranty Loan and Real Estate Company;
21 Jerry McGreger and Deborah G. Nordwall of Lehman
22 Brothers; James M. Fowler, Jr. of Rose Law Firm;

1 David Menz, Jack Williams and Bill Spivey of Wright,
2 Lindsey and Jennings; Lyndell Lay of Charter Mortgage
3 Investment Company; and Jim Thom Bell of First
4 National Mortgage Company."

5 My first question is have you ever seen
6 this document before?

7 A Well, 13 years ago. I don't -- go ahead.

8 Q Did you commonly review minutes of board
9 meetings if they were published?

10 A No.

11 Q Did you ever review board minutes?

12 A No.

13 Q I would like to direct your attention to
14 the third page, and there is a -- the last paragraph
15 there, which begins "Mr. Stout."

16 A Okay.

17 Q "Mr. Stout stated that AHDA has received
18 eight proposals on the proposed multifamily bond
19 issue and that sometime within the next few days a
20 multifamily subcommittee meeting will be scheduled to
21 review these proposals and recommend to the full
22 board their decisions on underwriters for this

1 program."

2 Does that represent a reference to a single
3 issuance or to the entire multifamily bond issuance,
4 do you know?

5 A "Informed the members that in the future he
6 would like to ask the president of Mortgage Bankers
7 Association, president of the Homebuilders
8 Association, the Board of Realtors and the Savings &
9 Loan League to sit in on the planning sessions of
10 future issues. These people will be invited by
11 letter."

12 Q Referring to the paragraph I just directed
13 your attention to, did -- do you recall whether that
14 reference is to proposals from different underwriters
15 for the entire multifamily program or for a single
16 issuance?

17 A No, I don't.

18 Q Okay. I would like to show you another
19 copy of the board minutes from April 1st, 1983. The
20 second page reads "the housing" -- the second to last
21 paragraph to the bottom.

22 A Second page?

1 Q Yes, sir.

2 A Well, I am trying to --

3 Q Tell me when you are finished looking at
4 the first page.

5 A The second page, bottom paragraph.

6 Q I will find the full document, three-page
7 document, Arkansas Housing Development Agency
8 subcommittee meeting 3:00 p.m., April 1, 1983. Were
9 you on any subcommittees?

10 A I don't guess I was if I was talking to
11 them on the phone, it says here. Bottom paragraph,
12 first page.

13 Q There is a reference which says "Mr. Stout
14 mentioned that although Mr. Hardwicke was not
15 present, he had talked with him on the phone."

16 A And I was in agreement with Verex being
17 selected mortgage pool insurers. V-e-r-e-x.

18 Q Then on the second page, directing your
19 attention to the -- really a sentence, but it is set
20 off as a paragraph off the bottom, second paragraph
21 up reads "the housing board subcommittee members are
22 Chairman Stout, Mort Hardwicke, and George Wright,"

1 W-r-i-g-h-t. Is your recollection you were a member
2 of the housing board subcommittee?

3 A No, I don't recollect that. 1983, 13 years
4 ago, and there was so many different committees and
5 subcommittees and all the meetings. What was that
6 all about anyway?

7 Q Well, I was going to ask you what the
8 purpose -- what the admission of the subcommittee
9 was, but if you don't recall being on it.

10 A I wasn't even there as far as that.

11 Q I am going to show you some minutes from an
12 executive board meeting on April 12, 1983, of the
13 Arkansas Housing Development Agency. And I have
14 highlighted some portions for you so it will be
15 easier to see what I am referring you to, and take a
16 moment to review the whole document. And then
17 there's a specific highlighted portion I would like
18 to direct your attention to on the fourth page.

19 A Fourth page?

20 Q Yes, sir. There is a highlighted portion
21 there that reads "Chairman Stout stated that the
22 multifamily subcommittee heard oral presentations

1 from the underwriters earlier in the day, and were
2 prepared to make representations to the full board
3 this afternoon."

4 Does that refresh your recollection as to
5 how the underwriters were chosen, whether the
6 subcommittees reviewed different proposals and then
7 made recommendations to the full board? I am just
8 asking for your memory.

9 A I don't remember that. Even what issue it
10 was on. Multifamily? Yes.

11 Q It appears to be so, sir.

12 A Yes. April of '83.

13 Q Okay, I am going to continue reading if
14 that's all right. We are on the fourth page again.
15 It says "he asked Vice Chairman Hardwicke for the
16 subcommittee's recommendation. Vice Chairman
17 Hardwicke informed the board that all the proposals
18 were good, and after listening to eight proposals and
19 considering each carefully, the subcommittee would
20 like to recommend to the board that Merrill Lynch be
21 the lead underwriter with Stephens, Inc. and
22 T.J. Raney & Sons, Inc. as locals. The board also

1 recommended that the Rose Law Firm be selected as
2 bond counsel."

3 A Who?

4 Q "That the Rose Law Firm be selected as bond
5 counsel. After motions were made and seconded, the
6 board unanimously approved the underwriters and bond
7 counsel recommended by the subcommittee." Does
8 that -- do you recall choosing that underwriting
9 group for a multifamily housing back in 1983?

10 A No, no.

11 Q When choosing underwriters, did the board
12 have to unanimously approve them?

13 A I don't suppose they did. I imagine the
14 majority of the members that voted for an
15 underwriter, if they were the majority, that's who
16 they'd use.

17 Q Okay. But in this instance that I just
18 read to you, there was unanimous approval; is that
19 right?

20 A According to that document it is. It was
21 unanimously approved.

22 Q For some reason I have trouble with that.

1 That word gets caught in my tongue.

2 I am going to show you copies of an
3 Arkansas Housing Development Agency special executive
4 board meeting from April 19, 1983, and I am going to
5 give you a highlighted version as well.

6 A Okay.

7 Q Which has -- you are listed as present as a
8 board member as is Tony Edwards, George Wright and
9 Mahlon Martin. Again this is a multipage document, I
10 believe it's four pages long. Can you explain what a
11 special executive board meeting is, or what it was?

12 A I guess it was just a called meeting. Was
13 Charlie Stout the chairman at that time? I believe
14 he was. Mahlon Martin was the director of finance
15 and administration. Black man that -- real well
16 thought of in Arkansas, just a prince of a man. He
17 died recently with prostate cancer, but he was a
18 prince of a man.

19 MR. PORTNOY: If it is any help, sir, the
20 board meeting from May 18 shows Mr. Stout as
21 chairman, so I think it is a safe bet that he was
22 also chairman on April 19.

30

1 THE WITNESS: Yes.

2 BY MR. O'CALLAGHAN:

3 Q I would like to direct your attention to
4 the third page of the document. And the last full
5 paragraph of that page reads "upon Mr. Hardwicke's
6 request for further business, Mr. Wright made a
7 motion that Collins, Locke & Lasater be added to the
8 underwriting team for the agency's proposed 1983
9 multifamily issue, in order to spread it around and
10 include more local Arkansas underwriters on this
11 issue.

12 "Mr. Edwards seconded the motion and the
13 board approved the same" -- "the board approved
14 same," excuse me, there is no "the." Looking at this
15 document and thinking back -- I realize it was a
16 while ago, April 19, 1983, do you recall a board
17 meeting where the activity that's described in this
18 document took place?

19 A No. Yes, George Stout was chairman at that
20 time.

21 Q Do you recall any instances where
22 underwriting team was chosen by the board and then

1 later on other people were added during special
2 executive board meetings?

3 A I can't recall that, no. It may have
4 happened. I don't know.

5 Q So, just so we are clear looking at this
6 document and also checking your memory, do you recall
7 why Collins, Locke & Lasater was added to 1983
8 multifamily issue that's referenced in this document?

9 A No. I guess George Wright recommend it and
10 they accepted it. I don't know.

11 Q So, the --

12 A Now, at that time, was it still Collins,
13 Locke & Lasater?

14 Q Yes, sir. According to this document,
15 yes.

16 A Well, I know there was some controversy
17 there about Mr. Locke, and I don't know -- I think it
18 ended up Dan Lasater himself, was it not, ended that
19 way, Lasater & Company instead of Collins, Locke &
20 Lasater.

21 Q Lasater & Company followed Collins, Locke &
22 Lasater?

1 A Followed it.

2 Q Yes, sir.

3 A I know there was deals that went on with
4 Locke, I don't know what they were, but the firm
5 ended up as Dan Lasater's company, I guess, Lasater &
6 Company.

7 Q Do you recall, were there concerns
8 expressed by board members with Collins, Locke &
9 Lasater or Mr. Locke's activities?

10 A No, I don't. At that time I think
11 Mr. Locke was from Hamburg, Arkansas, a Ford dealer,
12 a friend of mine. And he was talking about what a --
13 he wasn't on the most respectable list or something
14 like -- kind of a wheeler dealer, Locke, I think.

15 Q Did you ever have any discussions with
16 board members about that?

17 A No.

18 Q No. Did that ever come up as an issue when
19 they were being considered as an underwriter?

20 A No. No.

21 Q I would like to show you a letter dated
22 April 28, 1983. It is on Stephens Inc. letterhead,

1 addressed to Mr. Charles Stout, Stout Realty, who you
2 indicated earlier was a chairman at that time, in
3 1983, you believed?

4 A Sir?

5 Q You believe that Mr. Stout was a
6 chairman --

7 A Well, it says Mr. Charles -- yes.

8 Q And it says from Gene Wilbourn, vice
9 president Stephens, Inc. There is a cc to Jackson T.
10 Stephens, AHDA board, Linda Trent and Bill Clinton.
11 And I would like to -- why don't you take a moment to
12 read the letter, and let me know when you are
13 finished, and I will have a couple of questions for
14 you. We can go off the record while he reads.

15 (Discussion off the record.)

16 THE WITNESS: I can't tell you what it is.
17 I remember they objected to someone being on the
18 underwriting team. Who was it?

19 BY MR. O'CALLAGHAN:

20 Q Stephens, Inc. did that, they objected to
21 someone being on the team?

22 A I think that's the way it came out.

1 Q I will read a portion of the letter into
2 the record and then we will address the issue, if
3 that's okay with you.

4 A Okay.

5 Q The last paragraph of the letter reads
6 "with this knowledge, Stephens, Inc. responded to
7 your invitation to propose as managing underwriter to
8 the multifamily issue. We were very pleased to have
9 been selected as a co-manager, and we're looking
10 forward to beginning work immediately. In the
11 meantime, subsequent to our selection, the board
12 decided without discussion to add to the underwriting
13 group a firm which did not submit a proposal, under
14 the agency proposal procedures, which invited firm
15 proposals.

16 "Although it is certainly the agency's
17 privilege to appoint any firm, we would invite to you
18 investigate more carefully whether the added company
19 meets the standards of capital, experience, sales,
20 capability, staff service, and market support, which
21 have been the preference of the board in all previous
22 issues."

1 A Is that referring to George Wright's
2 recommendation of the Collins, Locke & Lasater firm
3 being added?

4 Q That's my first question, is whether you
5 know if that's what it is referring to.

6 A Is that what it's referring to?

7 Q I have to ask you that question.

8 A I wouldn't be surprised. I don't know.

9 Q Let me read the next paragraph. Then I
10 will ask you some more questions.

11 "We are concerned that such actions may be
12 an indication of an erosion of the independence of
13 the board of directors, which if publicly perceived,
14 can only be received adversely in the market. It is
15 therefore with reluctance that we withdraw from this
16 issue." And then the paragraph continues with some
17 more text.

18 Now, you said that you had a recollection
19 that something like this happened on one of the
20 issues.

21 A I remember at one time Stephens, Inc.
22 objected to something and -- this Gene Wilbourn lives

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1 in Conway, same town as Charlie Stout, and they were
2 friends -- that he came to Charlie and talked to him
3 about it.

4 Q In the letter it says that a proposal
5 was -- or that another firm was taken on without the
6 submission of a proposal under the agency proposal
7 procedures.

8 Was that a unique thing to happen?

9 A I don't remember that part of it, no.

10 Q Do you recall what firm --

11 MR. PORTNOY: Did you say you don't
12 remember or no, it was not unique?

13 THE WITNESS: I don't remember that
14 specific, you know. I mean, gosh, you are talking
15 dozens of issues and 13 years back and people you
16 never met but one time in your life. Go ahead.

17 BY MR. O'CALLAGHAN:

18 Q Do you know whether concerns were raised
19 with regard to -- this occurred, I guess, about nine
20 days after the last board minutes I showed you, on
21 April 19. Looking at both of those documents, does
22 that refresh your recollection as to whether the firm

1 referred to in the Stephens, Inc. letter was probably
2 Collins, Locke & Lasater? Does that stand to
3 reason?

4 The board minutes on the 19th I guess
5 reference the recommendation by Mr. Wright to include
6 Collins, Locke & Lasater in an underwriting group,
7 after a group had been approved in an earlier meeting
8 of the board.

9 A I was trying to find that.

10 Q It should be highlighted for you on the --

11 A Okay, right here, on the third page.

12 Yes, sir. Mr. Edwards seconded the motion
13 and the board approved.

14 Q My question is looking at these two
15 documents, does that refresh your recollection as to
16 whether there were any complaints made with regard to
17 specifically Collins, Locke & Lasater being included
18 in an issue after proposals were received and the
19 group was selected, and they were subsequently chosen
20 during a special meeting?

21 A I don't specifically recall that, but it
22 probably was so. I don't know.

1 Q The letter dated April 28, which I just
2 showed you, the Stephens, Inc. letter to Mr. Stout
3 from Mr. Wilbourn says "we would invite you to
4 investigate more carefully whether the added company
5 meets the standards of capital, experience, sales,
6 capability, staff service and market support which
7 have been the preference the board in all previous
8 issues."

9 Do you know whether investigation was ever
10 made of Collins, Locke & Lasater's standards of
11 capital?

12 A I am sure there was not, as far as I know.

13 Q Why is that?

14 A Well, I don't know.

15 Q I mean, was that something the board
16 normally did or -- when they looked at firms or was
17 it something they didn't do?

18 A If there was ever an investigation into
19 Collins, Locke & Lasater's financials, I don't know
20 of any part of it.

21 Q Did the board or the agency ever look at
22 the financial condition or disciplinary history of

1 any of the firms in which they engaged business with?

2 A No. To the best of my recollection, this
3 guy from Conway, Gene Wilbourn was pretty high up in
4 Stephens and he went and talked to Charlie Stout. He
5 went to Charlie Stout with the problem, and I am sure
6 it was pertaining to what you are insinuating.

7 MR. O'CALLAGHAN: Can you read that back to
8 me, that response.

9 (The reporter read the record as requested.)

10 THE WITNESS: Okay, I think that's about
11 what I said, yes.

12 BY MR. O'CALLAGHAN:

13 Q During your term of service as a board
14 member for AHDA, were there ever any concerns brought
15 to your attention with regard to Collins, Locke &
16 Lasater or Lasater & Company?

17 A No.

18 Q During the period 1983 through 1986, did
19 you have any interaction with anyone at Collins,
20 Locke & Lasater or Lasater & Company?

21 A I never met any of them except their lawyer
22 that came to the meeting, and I don't even remember

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1 what he looked like. But I never saw Dan Lasater,
2 never been in the same room with him, and I have
3 never spoken to him, never met him.

4 Q When you refer to the lawyer, were you
5 referring to the Michael Drake that was referenced in
6 the document I read earlier?

7 A Their representative that came to the board
8 meetings, yes.

9 Q And you don't know if he was a lawyer or
10 not?

11 A I don't know whether he was a lawyer or
12 not.

13 MR. PORTNOY: Do you recall if it was
14 Mr. Drake or not?

15 THE WITNESS: Mr. Who?

16 MR. PORTNOY: Mr. O'Callaghan's question
17 referred to a Mr. Drake, who some of the board
18 minutes reflect represented or may have represented
19 Lasater & Company or Collins, Locke & Lasater. Do
20 you recall Mr. Drake or do you simply recall that
21 there was a representative at the meetings?

22 THE WITNESS: If he was there he wasn't

1 there on a regular basis, not like most of the
2 others.

3 BY MR. O'CALLAGHAN:

4 Q He wasn't there on a regular basis?

5 A No. As far as I can remember. He wasn't
6 that impressive, either.

7 MR. PORTNOY: You don't specifically recall
8 his name, sir?

9 THE WITNESS: No.

10 BY MR. O'CALLAGHAN:

11 Q In and around January of 1985, did you
12 attend a presentation given by E.F. Hutton and
13 Lasater & Company --

14 A Who.

15 Q E.F. Hutton and Lasater & Company --

16 A Lasater & Company?

17 Q Lasater & Company.

18 A Did I?

19 Q Yes, sir, in January 1985, a presentation
20 given by them, I believe it was at the Legacy Hotel.

21 A In where?

22 Q In Little Rock, I believe.

1 A The Legacy?

2 Q Let me show you a document.

3 A Okay.

4 Q I would like to show you a document
5 entitled -- cover page is "Presentation to the State
6 of Arkansas regarding financing, structuring and
7 investment banking services, January 10, 1985, E.F.
8 Hutton & Company Inc., Lasater & Company," and the
9 Bates ranges DKSX 0127487 through 027562. I am just
10 going to ask you generally if this refreshes your
11 recollection whether you attended a meeting given by
12 E.F. Hutton and Lasater & Company --

13 A 1985. I sure don't. Bill Johnson was with
14 E.F. Hutton for a long time and I don't think -- at
15 least when I went off the board, he was with
16 Donaldson, Lufkin & Jenrette. And who he is with
17 now, if he is still alive, I don't know. But I don't
18 remember any of this, no. I don't recall any of it.

19 Q Thanks. During the period 1983 through
20 1986, did you have any interaction with anyone in the
21 governor's office while you were a board member?

22 A Any interaction?

1 Q Yes, sir.

2 A You mean with whom?

3 Q With anyone in the governor's office.

4 A Well, oh, I could talk to Betsey Wright and
5 Bill Clinton if I needed to.

6 Q Did you ever talk to them with regard to
7 AHDA bond offerings?

8 A No.

9 Q Did anyone in the governor's office ever
10 indicate to you that a certain number of -- that a
11 certain amount of underwriting business should go to
12 Arkansas firms?

13 A I always felt that it should, because -- to
14 the best we could, keep the money at home if we
15 could. In fact, I made the motion to cut the
16 national underwriter down to a third and split the
17 rest with the local underwriters instead of giving
18 the national underwriter 50 percent, cut him down to
19 a 30 and split the other 66-2/3 local.

20 Q Had you had any discussions with anyone in
21 the governor's office with regard to --

22 A About that?

1 Q Yes, sir.

2 A No, sir. That's my own personal feeling.

3 Q Did the governor's office ever identify a
4 specific firm that they wanted to see get a certain
5 amount of the underwriting business?

6 A No, sir, not to me.

7 Q Do you know if they did to anybody?

8 A Not that I know anything about.

9 Q So you never heard that?

10 A I never heard of it, no.

11 Q While you were at the agency, did there
12 ever come a time when the agency determined not to
13 include Lasater & Company from their list of eligible
14 underwriters?

15 A Not that I know anything about.

16 Q During your term of -- as a board member,
17 were there certain firms which were excluded from
18 participation in the underwritings?

19 A Excluded?

20 Q Yes, sir, was there a list of firms, we
21 don't want these firms participating in the
22 underwriting because they have bad reputations, they

1 don't have enough capital for any reason?

2 A If they were excluded, it wasn't brought
3 out in the open, just -- I didn't know anything about
4 it if it did.

5 Q How was legal counsel chosen to represent
6 the agency?

7 A If you will look, it is pretty well spread
8 around. Bill Clinton was a member of the Wright,
9 Lindsey & Jennings firm and Hillary was a member of
10 the Rose Law Firm, and they got their share of the
11 business. But there was other bond counsels there
12 that got the business, too.

13 Q Was there a set criteria set up for picking
14 counsel or was it more just discussions?

15 A I think it was a bid process, yes. I'm --
16 the staff pretty well took care of that.

17 Q Okay. But did the board vote on those
18 selections?

19 A Yes.

20 Q On staff recommendations or --

21 A The staff recommended and the board
22 approved their recommendation on bond counsel.

1 Q Are you aware whether any firms made bids
2 for underwriting contracts that they weren't able to
3 execute at the bid price that they submitted?

4 A No.

5 Q And again, were there any law firms that
6 were excluded from the list of law firms that the
7 agency wanted to use at any time?

8 A Really, I don't know that anybody was
9 excluded. Some were better at it than others. It's
10 like most law firms specialize in some things.

11 Q Do you know whether Mr. Lasater ever
12 recommended you for appointment or reappointment to
13 the AHDA board or ADFA board?

14 A Well, no, I never knew Dan Lasater in my
15 life, never saw him, never been in the same room with
16 him as far as I know. He sure don't know me.

17 Q Okay. I would like to -- I am going to
18 show you something. I show you two pages -- I
19 will -- actually I will show the first page, one-page
20 document letter on Lasater Inc. letterhead, and it's
21 Bates stamped DKS N 026606, dated May 1st, 1985, and
22 it is addressed to Honorable Bill Clinton and signed

1 Dan R. Lasater. Take a moment to look at that.

2 A Okay.

3 Q And I am going to ask you a couple of
4 questions.

5 A The first I ever saw of this letter. Well
6 he sure knew me, didn't he.

7 Q Okay. And before I asked you, you said you
8 had never seen this letter before?

9 A I have never seen the letter before. I
10 have never met Mr. Lasater or know how he even heard
11 of me. That's politics, I guess.

12 Q This is a letter from -- appears to be a
13 letter from Lasater to the governor recommending you
14 as appointment to the board of Arkansas Development
15 Finance Authority; is that right?

16 A Oh, that's what this is for?

17 Q Yes, sir.

18 A See, I didn't -- that's Development Finance
19 Authority. This is all Greek to me.

20 Q Okay.

21 A Really, I never -- before that board was
22 appointed, Bill -- he said I'm going to take care of

1 my friends as soon as you find out about Charlie
2 Stout. And Charlie was a Frank White supporter;
3 Frank White put him on the board. Charlie had given
4 me some money to give to Bill and I did. And then he
5 wanted me to find out how upset Charlie would be if
6 he didn't reappoint him, so I don't know who got this
7 letter up. But I didn't have anything do with it. I
8 wasn't reappointed and didn't -- in fact I resigned.
9 I offered my position and he accepted it.

10 Q Do you have any reason to know why
11 Mr. Lasater would recommend you for a position on the
12 board?

13 A No.

14 Q So you were never told why he did that?

15 A No, I never heard of it. Never heard of
16 it.

17 Q You just said that Mr. Stout gave you money
18 to give to Mr. Clinton?

19 A Yes. Gave me a check.

20 Q Was that for a campaign contribution?

21 A Yes.

22 Q Was that while you were a member of the

1 board?
2 A Sir?
3 Q Was -- I'm sorry, was that while you were a
4 member of the board?
5 A While he was?
6 Q While you were.
7 A Yes, while I was a member of the board.
8 Q Why did he give money to you to give the
9 governor?
10 A Well, I don't know. He said give this to
11 Bill, and it was a thousand dollar check.
12 Q Was it a check in his name or your name
13 or --
14 A His name. I guess -- I don't remember that
15 now. I didn't -- Clinton got the money, and that was
16 a campaign contribution from a Frank White appointee,
17 and I guess it was because he wanted to be
18 reappointed to the board.
19 Q But it was given in your name?
20 A No, sir. Don't do it that way. I don't
21 think that's right. I think it was made out to Bill
22 Clinton.

1 Q I'm sorry?
2 A Signed by Charlie Stout.
3 Q He just asked to you give it to him?
4 A Yes.
5 Q Thanks for clearing that up.
6 During the period 1983 through 1986, again,
7 did you have any involvement in the appointment
8 process for the AHDA board; were you ever consulted?
9 A No.
10 Q Did you ever have discussions with the
11 governor or anyone in the governor's office with
12 regard to who would be appropriate for the board?
13 A No.
14 Q You weren't consulted?
15 A No.
16 Q Other than what you said, that the governor
17 asked you whether Charlie Stout would be upset?
18 A Well, they were -- they did away with the
19 Arkansas Housing Development Agency board as such and
20 expanded the board two or three members. And Charlie
21 had given him this money, and he was worried he might
22 get upset if he didn't reappoint him. And I called

1 Charlie and Charlie said I've got trouble in a
2 condominium project in Hot Springs and I couldn't
3 accept it if it was offered.

4 Q Did you have any other discussions with the
5 governor with regard to board members on the AHDA or
6 ADFA? Sorry. You have to say yes or no.

7 A I did not bother the governor. If I had to
8 see him, I could get in to see him. Otherwise, I did
9 not hang around the governor's office.

10 Q So you are saying you didn't have any
11 conversations with regard to board appointments or
12 who was on the board with the governor, either AHDA
13 or ADFA?

14 A No.

15 MR. O'CALLAGHAN: Is it all right with
16 everyone if we take a quick break here?

17 (Recess.)

18 MR. O'CALLAGHAN: Let's go back on the
19 record.

20 BY MR. O'CALLAGHAN:

21 Q During December of 1985, this is toward the
22 end of your tenure, what position did you hold on the

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1 board? Were you chairman at that time or -- were you
2 ever chairman?

3 A Yes. I don't remember what year it was.

4 Q Was it toward the end of the time that you
5 were there?

6 A Yes.

7 Q So December 1985, would that have been
8 closer toward the end of your term?

9 A Yes. Well, I don't know if my term was
10 ended when I got off. I just -- they did away with
11 the agency and changed the name of it, and I don't
12 know when my term would have expired.

13 Q Mr. Portnoy has been kind enough to provide
14 me with a copy of the board minutes from December
15 12 -- actually this is 1984, which lists board
16 members present were Chairman Mort Hardwicke.

17 A That was '84?

18 Q Yes, sir.

19 A Okay.

20 Q Do you recall how long you were chairman
21 for?

22 A One year. They more or less tried to pass

1 it around, you know, rotate.

2 Q While you were a member of AHDA as a board
3 member there, as far as you know, did any of the
4 staff members maintain any accounts at Lasater &
5 Company?

6 A Any of the staff members do what?

7 Q Maintain securities accounts at Lasater &
8 Company?

9 A No, I have no idea.

10 Q How about the board members, did any of
11 them maintain accounts there?

12 A I doubt it very seriously.

13 Q Did you ever maintain any accounts there?

14 A No, sir.

15 Q Did the governor or Mrs. Clinton maintain
16 any securities accounts at Lasater & Company?

17 A I don't have any idea.

18 Q During your service as an AHDA board
19 member, was it ever brought to your attention that
20 anyone at Lasater & Company was involved in any sort
21 of criminal activity?

22 A No, just rumors. And I don't know anything

1 about it, except that Bob James said that this Locke
2 was from Hamburg, and he was a high roller and kind
3 of got his hand caught in the cookie jar or
4 something.

5 I don't know what happened, but he got out
6 of the firm. And I don't know -- I didn't know that
7 Dan Lasater continued to own, in a firm of his own.
8 And I know there was a controversy over that and Bob
9 James knew the man personally, and I didn't know him,
10 never saw him.

11 Q So the concerns with regard to Mr. Locke,
12 you heard about those while it was still Collins,
13 Locke & Lasater; is that right?

14 A Yes, yes.

15 Q Who is Mr. James again? Where was he
16 employed?

17 A Sir?

18 Q How did you know Mr. James; where was he
19 from again?

20 A He was born and raised in Hamburg, but he
21 bought the Ford agency in Paris, the little town I
22 live in.

1 MR. PORTNOY: Did Mr. James have any
2 connection to AHDA at all?

3 THE WITNESS: No.

4 MR. PORTNOY: Just a private citizen.

5 THE WITNESS: No, we were just friends at
6 the coffee shop and he was talking about this fellow
7 Locke.

8 BY MR. O'CALLAGHAN:

9 Q Did you relate what he told you to any
10 other board members?

11 A No.

12 Q Why was that?

13 A I don't know. It was just coffee shop
14 talk.

15 Q Did there ever come a time when you became
16 aware that Mr. Lasater was involved in criminality?

17 A When I read it in the newspaper. You know,
18 I mean -- go ahead.

19 MR. PORTNOY: I am going to note for the
20 record, the Minority objects to inquiries about
21 Mr. Lasater as outside the scope of the resolution,
22 unless those inquiries pertain to Mr. Lasater's role

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1 or selection as a bond underwriter.

2 BY MR. O'CALLAGHAN:

3 Q The question was whether you -- you said
4 you didn't know whether -- until you read it in the
5 newspapers; is that right?

6 A Well, street talk, yes.

7 Q Did you hear any of that street talk while
8 you were a member of the AHDA board?

9 A Yes, street talk.

10 Q What kind of street talk did you hear?

11 A That they were having cocaine parties.

12 Q Did you ever hear from any law enforcement
13 officials from any --

14 A No, no, no. I said it was street talk,
15 coffee shop talk.

16 Q Did that ever raise a concern with members
17 of the board?

18 A Sorry?

19 Q Did that ever raise a concern with members
20 of the board?

21 A It was never discussed, I'm sure.

22 Q That's just talk that you heard personally?

1 A Yes. And it was in the newspapers, you
2 know.

3 MR. PORTNOY: Could we try and place this
4 in time? Could you be clear, sir, whether you had
5 any knowledge about Mr. Lasater while you served on
6 the board or prior to public disclosure.

7 THE WITNESS: No, I did not. I have never
8 met the man. I wouldn't know him if he -- I have
9 seen pictures of him, but I wouldn't know him if
10 he -- I've never met him and it was just talk, you
11 know, that he was kind of a wheeler-dealer. He had
12 made a lot of money in the fast food business or
13 something, came into Little Rock and started this
14 firm and I guess did good for a while.

15 BY MR. O'CALLAGHAN:

16 Q Just so we are clear also, when we were
17 talking about the street talk, the reference
18 earlier. Was that while you were a board member, you
19 also heard that street talk, or was that specifically
20 after you served?

21 A More or less after I served, yes.

22 Q Was the street talk that you referenced

1 earlier, that was before he was indicted or after he
2 was indicted, do you know?

3 MR. PORTNOY: I am going to object to any
4 inquiries for the period after the witness served on
5 the board, because it can't possibly pertain to
6 anything covered by the resolution.

7 MR. O'CALLAGHAN: I was trying to get it
8 closer to when he was a board member, also which
9 would be before the indictment.

10 MR. PORTNOY: The witness testified any
11 knowledge he has he believes he came to after he
12 served on the board. And as a consequence, any
13 knowledge he might or might not have had about
14 Mr. Lasater can't possibly be relevant to the
15 resolution.

16 BY MR. O'CALLAGHAN:

17 Q I believe you said more or less. I wanted
18 to make sure that we are clear on when you heard the
19 information, whether it was --

20 A I don't even know what year we are talking
21 about; '82, '86 or '90. But whatever, it was just --
22 it was talk and in the newspapers, and he served a

1 prison term over it. And I think Bill's brother --

2 MR. PORTNOY: I am going to object to any
3 further discussion of this subject, unless we can
4 directly relate it to the period during which the
5 witness served on the board.

6 MR. O'CALLAGHAN: That's fine, Jim. I am
7 not trying do anything different.

8 BY MR. O'CALLAGHAN:

9 Q Just so we are clear as to when you first
10 heard about the information you identified earlier.
11 Do you recall whether you had any conversations with
12 anyone on the board, whether in meetings or outside
13 of meetings, about the type of illegal activity that
14 you heard about?

15 A No.

16 Q The answer is no.

17 MR. PORTNOY: Can we go off the record for
18 a second.

19 (Discussion off the record.)

20 MR. O'CALLAGHAN: Let's go back on the
21 record.

22 BY MR. O'CALLAGHAN:

1 Q Mr. Hardwicke, did you remain in contact
2 with board members after you left the board?

3 A No.

4 Q Were you friends with any of them?

5 A Tommy Edwards, a black man up in Searcy, I
6 talked with him a time or two, and I have talked with
7 Charlie Stout a time or two in the last 10 years.
8 And I can't even think of the man's name --
9 F-o-r-d-y-c-e. I can't think of his name offhand, a
10 Christmas card.

11 Q Did you have any discussions after you left
12 the board with any of the board members with regard
13 to Mr. Lasater or any of his activities?

14 A No.

15 Q Are you aware of any money laundering that
16 was associated with AHDA while you were there or ever
17 heard any reports about that?

18 A Money laundering?

19 Q Yes, sir.

20 A No, sir, I have not.

21 Q In connection with any of the bond
22 offerings? You have to articulate.

1 MR. PORTNOY: State your answer out loud.

2 THE WITNESS: No, I am not.

3 BY MR. O'CALLAGHAN:

4 Q Mr. Hardwicke, do you have any knowledge of
5 the governor's relationship with Dan Lasater during
6 the period of 1983 through 1986?

7 A I do not.

8 Q Did you have any discussions with the
9 governor with regard to Dan Lasater while you were a
10 board member?

11 A I did not.

12 MR. O'CALLAGHAN: Off the record.

13 (Discussion off the record.)

14 MR. O'CALLAGHAN: Back on the record.

15 BY MR. O'CALLAGHAN:

16 Q Do you know whether or not an attempt was
17 ever made to provide to Governor Clinton money in
18 connection with state bond underwritings?

19 A Ask me that again.

20 Q Do you know whether there were any attempts
21 ever made to provide the governor with more than or
22 remuneration in connection with state bond

1 underwritings?

2 MR. PORTNOY: Could you please state your
3 answer for the record, state your answer out loud for
4 the record.

5 THE WITNESS: As far as I know, I don't
6 know.

7 BY MR. O'CALLAGHAN:

8 Q Have you ever heard that?

9 A That what?

10 Q That attempts were made to provide the
11 governor with money in connection with state bond
12 business?

13 A No.

14 Q To your knowledge, has any members of the
15 ADFA board or AHDA board ever been offered cash in
16 connection with a bond underwriting?

17 A If there was I never heard of it. I was
18 never offered any form of compensation at all, by
19 anybody. Now, we do a bonds deal and they would give
20 you a little memento, a briefcase or a pen and pencil
21 set for your desk, something like that. But after --
22 but as far as secret deals and money changing hands,

1 no, not no part of any bribery or underhanded money
2 changing hands at all.

3 Q Do you know whether Governor Clinton ever
4 made an attempt to Dan Lasater to assist his brother
5 Roger in finding a job?

6 A I sure don't.

7 Q Do you know whether Dan Lasater ever loaned
8 money to Roger Clinton?

9 A Loaned money to who?

10 MR. PORTNOY: Again I object. This is
11 outside the scope of the resolution. I am going to
12 ask the witness not to respond to this question.

13 MR. O'CALLAGHAN: Do you want me first to
14 explain why I think it is in the scope, and then you
15 could --

16 MR. PORTNOY: Please.

17 MR. O'CALLAGHAN: Okay. The reason I am
18 asking this question is due to the fact whether or
19 not there was any influence exerted with regard to
20 bond underwriting contracts, in that whether if
21 Mr. Lasater loaned money to the brother of the
22 governor, that would be evidence of a relationship

1 that existed between Mr. Lasater and the Clinton
2 family. And that's clearly within the scope of the
3 resolution with regard to looking at any facts that
4 might tend to reveal the full facts about the bond
5 underwriting contract between ADFA and Lasater &
6 Company.

7 MR. PORTNOY: And I will restate that it is
8 appropriate to ask the witness, as you have in a
9 variety of different ways, whether he has any reason
10 to believe that Mr. Lasater received any kind of
11 favorable treatment, or whether the governor made any
12 effort, or the governor's office made any effort to
13 influence the selection of an underwriter.

14 The witness has now testified repeatedly to
15 the best of his knowledge, there was no effort by the
16 governor or the governor's office to influence the
17 selection of an underwriter. With that being the
18 case, there cannot be any possible relevance to any
19 relationship that anyone else may have had. It
20 simply can't be pertinent based on this witness's
21 knowledge.

22 MR. O'CALLAGHAN: Jim, if he has a

1 knowledge of a relationship, it is pertinent. And
2 with respect to whether or not he has testified to
3 his precise knowledge of steps that were taken to
4 influence may be beyond what he knows versus what he
5 knows about this issue, I could ask that in one
6 question, beginning of every deposition, and that
7 would be a pretty pathetic investigation. And we
8 wouldn't be doing our job as counsel to the committee
9 in trying to uncover the facts outlined in the
10 resolution and what we have been charged do.

11 MR. PORTNOY: I think we need to go off the
12 record.

13 MR. O'CALLAGHAN: Sure.

14 (Discussion off the record.)

15 MR. O'CALLAGHAN: Let's go back on the
16 record. I had previously asked a question and after
17 further consultation with Minority, I have agreed to
18 rephrase my question with regard to a certain subject
19 area, and you don't have to respond to the question I
20 just asked.

21 BY MR. O'CALLAGHAN:

22 Q The question I would like to pose to you is

66

1 whether you have any knowledge of whether the --
2 whether Governor Clinton had knowledge of an \$8000
3 loan to Roger Clinton made by Dan Lasater?

4 A I have no knowledge of that whatsoever.
5 Never heard of it before. Go ahead.

6 Q Are you aware of any use that the governor
7 made of Lasater aircraft during the period of 1983
8 through '86?

9 A I don't personally know. One time we went
10 to New York for a bond closing. And there was two
11 planeloads, staff and board members, Hillary and
12 Bill. And they asked for volunteers to ride on the
13 Stephens plane, and I volunteered to ride on the
14 Stephens plane. Everybody wanted to ride with Bill.
15 And I don't know whose plane it was, it was a private
16 plane and they may have rented it. I don't know.
17 Stephens furnished one jet and I rode on the Stephens
18 plane.

19 Q When did that happen?

20 A What was it?

21 Q No, when. When was that trip to New York
22 or do you know what bond offering?

- 1 A No, I don't. No.
- 2 Q That was when you were a board member
- 3 though?
- 4 A Yes.
- 5 Q You don't know who the other plane belonged
- 6 to?
- 7 A No, I don't. Whether it was rented or
- 8 whatever, I don't know. I rode in the Stephens plane
- 9 which they had personnel on it, too.
- 10 Q And the governor flew on another plane?
- 11 A Yes.
- 12 Q This was for a bond closing?
- 13 A Yes.
- 14 Q Do you know whether the plane belonged to
- 15 any of the other underwriters involved?
- 16 A I have no idea who the other plane belonged
- 17 to. It could have been a rented commission plane, I
- 18 don't know.
- 19 Q Were they jet engines or props?
- 20 A It was a jet, but it had to stop for fuel
- 21 and we didn't. The Stephens plane flew straight
- 22 through without refueling.

- 1 Q The governor was on the other plane and you
- 2 were on the Stephens plane?
- 3 A Yes.
- 4 Q Was this a bond underwriting that involved
- 5 Lasater & Company, do you remember?
- 6 A I don't have any -- I thought they were
- 7 just a bit player, dealt with a few bonds. They were
- 8 never even considered to be the -- as far as I can
- 9 remember, they just played a bit part.
- 10 Q And just so we can help put this in time,
- 11 was this toward the end of your tenure, in the
- 12 middle, beginning, when you flew up to New York for
- 13 the bond closing?
- 14 A I would say it would be the middle, '84,
- 15 somewhere in that neighborhood.
- 16 Q Other than that trip for the bond closing
- 17 where you flew up in the Stephens jet and the
- 18 governor flew up in another jet, were you involved
- 19 with any other flights during that time period or
- 20 aware of any flights he might have taken on Lasater
- 21 aircraft?
- 22 A I never was on a Lasater plane. Didn't

1 even know he had one.

2 MR. PORTNOY: To be clear, you don't
3 know --

4 THE WITNESS: Sorry.

5 MR. PORTNOY: Just to be clear, you don't
6 know who owned the second plane in that trip to New
7 York?

8 THE WITNESS: What did I say wrong?

9 MR. O'CALLAGHAN: You didn't say wrong. He
10 already testified -- you didn't know who owned the
11 other aircraft or whether it was rented.

12 THE WITNESS: That's right.

13 BY MR. O'CALLAGHAN:

14 Q During the time that you were a member of
15 the AHDA board, did there come a time when the agency
16 moved space?

17 A Yes.

18 Q From one building to another?

19 A Yes.

20 Q Did the agency lease space from Madison
21 Guaranty Savings & Loan?

22 A Yes.

1 Q Did you have any participation notice
2 process of obtaining a lease during that time period?

3 A I didn't have any participation in
4 obtaining the lease. We were in the Donahue
5 building. And it was a horseshoe-shaped building,
6 half the agency on this side of the building and half
7 over here; you had to walk around. And McDougal had
8 bought an old laundry building down in the edge of
9 the slum district, low end neighborhood, and
10 remodeled it and put his Madison Guaranty offices
11 there. And the Arkansas housing agency moved down
12 there.

13 Q Did the board take any action with respect
14 to the move? Did they have to vote on it or --

15 A It was discussed. Some of the staff,
16 especially the women objected to the location. But
17 Mr. McDougal put up a nice heavy fence and a guard on
18 the parking lot, and they moved down into some much
19 nicer offices than they had in the Donahue building,
20 much more space, much nicer. But he did put a guard
21 on the parking lot and had off-street parking, plenty
22 of parking, and put a nice steel fence around it. It

1 was very attractive.

2 Q Did you have any role in evaluating the
3 various lease proposals that were put forward for the
4 AHDA's move?

5 A To evaluate the proposals?

6 Q Yes, sir.

7 A No, sir, I didn't have any -- didn't
8 participate in it, that I can recall. I don't --

9 Q Do you recall during this time whether
10 Mr. Epes made a rejection of the Madison proposal to
11 state building services?

12 A Restate that. I don't hear well.

13 Q I'm sorry. I mumble sometimes.

14 A I have a hearing aid in each ear.

15 Q Are you aware, or did there come a time
16 when Mr. Epes, Wooten Epes -- wasn't he the president
17 at that time?

18 A Yes, I believe so, he was.

19 Q Did there come a time where he wrote state
20 building services telling them AHDA did not want to
21 move into the Madison building?

22 A He may have. I don't know.

1 Q Did you have any discussions with him about
2 that?

3 A It was discussed pretty openly with the
4 staff. Especially the women had some reservations
5 about where the location was.

6 MR. O'CALLAGHAN: Go off the record for a
7 second.

8 (Discussion off the record.)

9 MR. O'CALLAGHAN: Back on the record.

10 BY MR. O'CALLAGHAN:

11 Q Mr. Hardwicke, I would like to show you a
12 document, one-page document, on Arkansas Housing
13 Development agency letterhead, dated March 5, 1984.
14 It is addressed to Ms. Helen Vowel of the state
15 building services. And there is a signature, signed
16 "sincerely Wooten Epes," and the -- I would like to
17 have you take a quick look at that, and you and I can
18 read the first line of the letter which reads "AHDA
19 has decided to reject the proposal of Madison
20 Guaranty to provide office space at 1501 Main
21 Street."

22 I guess my question is, did Mr. Epes

1 consult with the board with regard to the decision --

2 A I am sure he discussed it with some of
3 them. He wouldn't probably do that without somebody
4 on the board or committee discussing it. I am sure
5 he wouldn't do it by himself.

6 Q Did he discuss it with you?

7 A If he did, I don't remember. If it was
8 discussed pro and con amongst everybody, I guess.

9 Q Do you have any recollection of a meeting
10 in or around the March, April 1984 time period, about
11 the time the rejection proposal went in with regard
12 to the lease with Madison? Do you have any
13 recollection of a meeting that you attended with
14 Mr. Epes and the governor with regard to this lease?

15 A No, I don't. March?

16 Q March through April of 1984.

17 A I don't offhand remember it. But it could
18 have happened. I sure don't. It was supposed to
19 have taken place in the governor's office.

20 Q The question is do you have a memory of
21 that?

22 A I don't remember it.

1 Q We have had testimony that you attended a
2 meeting with Mr. Epes and the governor with regard to
3 the concerns of the staff and the reluctance of the
4 agency to move into the Madison space.

5 And that that request was denied by the
6 governor, and the -- does that help refresh your
7 recollection whether you had a meeting of that
8 nature?

9 A He denied our request not to move?

10 Q I believe that was the testimony, yes,
11 sir.

12 A I don't recollect it that way. I don't
13 recollect it period. But go ahead.

14 Q Was it -- did you have many meetings with
15 the governor during this time? It would have been --

16 A I never did have very many meetings with
17 the governor. He was busy. I didn't bother him. If
18 I needed to see him I could; if not, I left him
19 alone.

20 Q I am trying to help you remember whether or
21 not this was a unique event where you would remember
22 meeting with the governor and Mr. Epes with regard to

1 the lease and Madison?

2 A I don't ever remember meeting with Wooten
3 and the governor.

4 Q Do you remember meeting with the governor
5 with regard to the leases?

6 A No.

7 Q Did the governor ever express to you that
8 he would like to see the AHDA move into the Madison
9 building?

10 A No.

11 Q Did he ever mention his relationship with
12 Mr. or Mrs. McDougal with regard to leasing space for
13 AHDA in the Madison building?

14 A No.

15 Q Was that ever brought up as an issue during
16 the time you were considering leasing the Madison
17 building, the governor's relationship with the
18 McDougals?

19 A Well, he and McDougal were friends; I knew
20 that.

21 He worked -- McDougal made a race for House
22 of Representatives, United States House of

1 Representatives, and got beat, and he was -- went to
2 work for Bill Clinton in the office there. I don't
3 know what his title was, but --

4 Q But that never came up as an issue when you
5 were considering leasing the Madison building?

6 A Not as far as I remember, no, sir.

7 Q During the time period where the agency was
8 considering renting space from the Madison building,
9 were you aware whether -- were you aware that the
10 governor had a business relationship with the
11 McDougals?

12 A Not at that time, no.

13 Q Did anyone -- any of the other board
14 members?

15 A I couldn't speak for them. I don't -- I
16 doubt it very seriously.

17 Q During --

18 A What year did the agency move into
19 McDougal's building?

20 Q 1984.

21 A In '84.

22 Q I believe it was in April or May of 1984.

1 A Okay.

2 Q Does that help refresh your recollection?

3 A Well, no, I just didn't -- I know at the
4 time, half of board members were appointees of Frank
5 White, the Republican governor. In fact, he had
6 three out of five at one time.

7 Q Did you have any discussions with anyone at
8 state building services with regard to leasing
9 Madison space?

10 A No, sir.

11 Q Did you have any contact with anyone in the
12 governor's office with regard to the lease of the
13 Madison space?

14 A No.

15 MR. O'CALLAGHAN: I have no further
16 questions at this time. Just for your knowledge, I
17 finished my questioning for the moment, and Minority,
18 Mr. Portnoy, has an opportunity to ask you some
19 follow-up questions. And then if there are other
20 matters which I feel a need for clarification, I will
21 ask more questions, and it goes back and forth like
22 that.

1 THE WITNESS: Oh, fine.

2 MR. PORTNOY: I would like to go off the
3 record for just a moment.

4 (Discussion off the record.)

5 EXAMINATION

6 BY MR. PORTNOY:

7 Q My name is Jim Portnoy. I am Minority
8 counsel, sir, and I have just a few follow-up
9 questions.

10 You were asked before about a time when
11 Stephens, Incorporated withdrew as a potential
12 underwriter. Are you aware of any rivalry between
13 Stephens and Lasater; were they competitors?

14 A Well, they wouldn't be much competitors. I
15 mean, I wouldn't think -- Stephens is the biggest
16 Wall Street -- biggest underwriter -- brokerage house
17 off Wall Street, and it is wholly owned by that
18 Stephens family. It is not a stock company. I think
19 they could swallow Dan Lasater a hundred times if
20 any.

21 Q So, small fish like Lasater weren't likely
22 to be of much concern to Stephens?

1 A As far as I'm concerned, Stephens, Inc. and
2 T.J. Raney could have done every bond issue that was
3 done in Arkansas that pertains to Arkansas Housing
4 Development Agency; they were that big.

5 Q Earlier, Mr. O'Callaghan asked you about a
6 motion you made to increase the participation of
7 local underwriting firms as opposed to national
8 underwriting firms; do you recall that, sir?

9 A Yes, sir.

10 Q That was your idea?

11 A Yes.

12 Q No one from the governor's office asked
13 you?

14 A No, no, sir.

15 Q No one --

16 A I just thought that the more money you
17 could keep at home the better off you were. And
18 somebody explained to me that you just about had to
19 have a national underwriter to get other bond people
20 to participate. So -- but that's the reason I made
21 it, is to -- not to help Raney or Stephens or anybody
22 else, just more or less to cut the pie into equal

80

1 parts.

2 Q And with respect to the selection of
3 underwriters, sir, did anyone from the governor's
4 office ever try and influence you to pick a certain
5 underwriter?

6 A No.

7 Q Did anyone ever try to influence you to
8 avoid using a particular underwriter?

9 A No.

10 Q So the governor's office left you to your
11 own devices to make your own decisions?

12 A If he influenced anybody it would probably
13 have been the director of the agency. He wouldn't
14 have come to the board members to try to do anything,
15 I wouldn't think.

16 Q You don't have any evidence that he tried
17 to influence the director of the agency?

18 A No, I am not insinuating that I did at
19 all. But I am saying he probably wouldn't come to a
20 board member. If he wanted something done he would
21 probably go to the director of the agency.

22 Q With respect to the bond counsel that the

1 agency used, did the governor's office ever try to
2 steer you to select a particular law firm?

3 A No.

4 Q Did the governor's office ever try to steer
5 you to avoid using a particular law firm?

6 A No.

7 Q Is bond counsel the same thing as
8 underwriter's counsel?

9 A No, I wouldn't think so.

10 Q So there is another category of counsel
11 here?

12 A I suppose.

13 Q Are you familiar with how an underwriter's
14 counsel is selected?

15 A No.

16 Q If I were to represent to you that the
17 underwriter selects their own counsel, would that be
18 consistent with what you know about the process?

19 A I don't know, really I don't. I really
20 don't know what you're trying to bring out.

21 Q You were asked just now about AHDA's move
22 to the building owned by Madison Guaranty. I believe

1 you indicated that there was some complaints by some
2 of the staff members; there were some concerns
3 expressed?

4 A Yes. The women expressed some -- it was in
5 a rundown neighborhood on Main Street, just down at
6 the end of the street. And then you ran into the
7 slum area, and they were a little afraid. And
8 McDougal built a nice brick fence and put steel fence
9 on top of that and a gate and a guard.

10 Q Would you describe that as the sort of
11 standard griping that goes on whenever an agency
12 moves?

13 A Probably it would happen wherever you moved
14 them to. It wouldn't suit everybody.

15 Q So if you had picked a different space
16 other people would have complained?

17 A Right, probably.

18 Q Did you consider the amount of complaining
19 out of the ordinary?

20 A Yes, there was some legitimate concerns
21 involved there, yes. I would think they were
22 legitimate concerns.

1 Q And were those concerns addressed, as you
2 understand it?

3 A Well, yes, he addressed them by putting a
4 nice fence around it and putting a guard out there
5 and alleviated the fear that some of the staff
6 members had about going down there and having to get
7 out of their car at night and go get into the car and
8 so forth.

9 Q Did anyone from the governor's office --

10 A Sorry.

11 Q Did anyone from the governor's office or
12 acting on behalf of the governor try to influence you
13 in any way with respect to moving the AHDA --

14 A No.

15 Q To your knowledge did anyone from the
16 governor's office or acting on behalf of the governor
17 try to influence anyone in AHDA with respect to the
18 move?

19 A As far as I know, they did not.

20 Q Do you have any knowledge of any improper
21 influence that was used with respect to the move of
22 AHDA to the building owned by Madison Guaranty?

1 A Not that I know anything about.

2 MR. PORTNOY: Thank you, sir, that's all I
3 have.

4 EXAMINATION

5 BY MR. O'CALLAGHAN:

6 Q Just in a follow-up to Mr. Portnoy's last
7 question. He asked you whether or not you were aware
8 of any improper influence used to move AHDA into the
9 Madison building. Just to help refresh your
10 recollection or whatever, I would like to ask you
11 whether you ever heard that Governor Clinton told
12 Mr. McDougal that a state agency would lease space
13 from Madison in its headquarters on Main Street in
14 return for campaign contributions that had been given
15 to the governor for his race.

16 A No, I have never heard that.

17 Q I only have one more question for you, so
18 bear with me for a moment.

19 I have a document, a one-page document. I
20 will describe it for the record quickly. It is an
21 Arkansas Development Financial Authority letterhead
22 dated November 7, 1986, to Mr. Morris Patterson from

1 C.E. Anderson, who is -- I believe was a staff member
2 of the -- of AHDA and ADFA; is that right?

3 A Anderson, C.E. Yes, he was our banker
4 there in Paris. When the bank sold, he was out of a
5 job and Clinton put him in the housing agency.

6 Q This letter is "re: broken glass and stolen
7 equipment of Ruth Glover's car, while parked on
8 courtyard parking lot of Madison Guaranty building."
9 And it references -- the letter discusses efforts
10 that -- to have Madison reimburse for the loss caused
11 by the broken glass and stolen equipment.

12 And in this letter there is a statement
13 with regard to the lease agreement security that
14 Madison said that they would provide. And underlined
15 here is "the fact is that we have had no security
16 service except for approximately three months of the
17 2-1/2 years that we have been here."

18 Take a look at that. It's highlighted for
19 you.

20 A "Broken glass and stolen equipment in Ruth
21 Glover's car while parked on the courtyard parking
22 lot of Madison Guaranty building."

1 Q I direct your attention to the part I
2 highlighted and just read. Is that an accurate
3 statement as far as you know?

4 A As far as I know, it probably is, yes.

5 Q Why is that?

6 A Well, I don't remember seeing the guard
7 there except the first few weeks.

8 MR. O'CALLAGHAN: Okay, thanks. That's all
9 I have.

10 EXAMINATION

11 BY MR. PORTNOY:

12 Q Just one follow-up. At the time that the
13 space was leased, is it your understanding that
14 Mr. McDougal or Madison Guaranty had agreed to place
15 a security guard on the property?

16 A Yes, he had him in uniform, a 6 foot 8
17 black man, weighed about 300 pounds and looked good.

18 Q So you had no reason to believe at the time
19 the lease was signed that the security would be
20 anything other than adequate?

21 A That's right. He knew -- I want to say it
22 was down in an area where it was dangerous after

1 sundown, and the staff knew it. And so he put this
2 nice fence up, the guard, and it looked great. Great
3 offices, did a nice job.

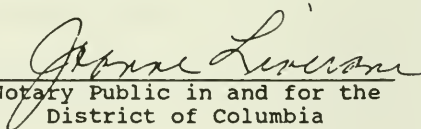
4 MR. PORTNOY: That's all. Thank you, sir.

5 (Whereupon, at 3:40 p.m., the deposition

6 was concluded.)
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9 MORT G. HARDWICKE
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I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

**DEPOSITION OF NANCY McFADDEN
IN RE: S. RES. 120**

THURSDAY, FEBRUARY 15, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of NANCY McFADDEN, called for examination pursuant to notice of deposition, at 1:28 p.m. in the Hart Senate Office Building, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.
Majority Associate Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

CHARLES J. SGRO, Esq.
U.S. Department of Justice
Tenth Street & Constitution Avenue, NW
Washington, DC 20530
On behalf of the Justice Department.

DAVID O. STEWART, Esq.
Ropes & Gray
1301 K Street, NW
Suite 800 East
Washington, DC 20005-3333
On behalf of the Deponent.

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PROCEEDINGS

Whereupon,

NANCY McFADDEN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. BARTOLOMUCCI:

Q Good afternoon, Ms. McFadden. My name is Chris Bartolomucci as I've told you. Before we begin there's a little spiel that I have to go through to have it on the record.

This is a deposition being conducted pursuant to Senate Resolution 120; that resolution establishes a special committee administered by the banking committee to conduct an investigation of Whitewater Development Corporation and certain other related matters.

This deposition is being conducted in advance of public hearings, you may or may not be called to testify at those hearings. At this point I really don't have the sense one way or the other.

I'll be asking you questions under oath.

4

You were sworn in before we started here. If at any time you don't understand the question, just let me know, and I'll try to rephrase it. And if at any point you want to take a break, also just tell me.

Our court reporter is going to be preparing a record of questions and answers; your deposition will be treated as committee confidential until the commencement of any hearings.

Prior to -- prior to hearings, you'll receive a letter from the committee telling you that you may come to the senate to review the transcript of your deposition and make note of any corrections of transcription on an errata sheet.

And if it turns out that you are asked to come testify at a public hearing, you'll be provided with a copy of your transcript four days in advance of the hearing.

I see you're represented by counsel today; is that right?

MR. BARTOLOMUCCI: Mr. Stewart, will you care to make a statement appearance for the record?

MR. STEWART: I'm David Stewart, Counsel

1 for Mrs. McFadden.

2 BY MR. BARTOLOMUCCI:

3 Q I'll tell you that objections to the forms
4 of questions will be noted for the record. It's
5 permissible for counsel to object on grounds of
6 privilege or scope; however, the committee chairman
7 may rule on any objections if you refuse to answer a
8 question.

9 I want to run through your background very
10 quickly, and I know you've done a lot, so we'll try
11 to do this in an economical fashion.

12 You graduated from the University of
13 Virginia Law School in 1987?

14 A That's correct.

15 Q And you clerked for a judge for a year
16 thereafter?

17 A Yes.

18 Q And then you joined the law firm of
19 O'Melveny & Meyers?

20 A That's correct.

21 Q What year would that have been?

22 A That would have been in the fall of '88, is

1 that -- yeah. Yes, I believe so.

2 Q And you were in the D.C. office --

3 A Yes.

4 Q -- of O'Melveny? Am I right that in
5 December of '91, you left O'Melveny to join the Bill
6 Clinton Presidential Campaign?

7 A January of '92.

8 Q January of '92?

9 A Early January '92.

10 Q Did you have a title during the time you
11 were with the campaign?

12 A Yes. When I first joined the campaign, I
13 believe the title was deputy political director. It
14 was a small group of people, so titles didn't mean
15 much.

16 Q At some point did your title change?

17 A Yes, at some point I believe it was after
18 the convention, I became the national surrogate
19 director, again, titles weren't really that
20 important, but something like that.

21 Q How did you come to join the Clinton
22 campaign?

1 A Through a sort of confluence of different
2 factors. I was ready to take a leave of absence from
3 private practice and was looking for an opportunity
4 to do so, I knew some people who were associated with
5 him, were fans of then Governor Clinton and were
6 encouraging me to join his campaign. And then a
7 personal friend joined the campaign and went to
8 Little Rock and I followed.

9 Q What persons, in particular, with the
10 campaign were involved in your joining the
11 campaign?

12 A In reality -- you mean -- people that were
13 encouraging me to join the campaign were actually
14 people that were not working specifically on the
15 campaign, were friends of the Clintons, the Holums
16 were the chief people. They were not working on the
17 campaign.

18 The campaign people who I talked to prior
19 to joining the campaign were mostly Stephanie Solein
20 who was the national political director to whom I
21 then was deputy, and John Hart, who was the, again,
22 title, the director of delegates or delegate honcho.

1 Q Was it either Ms. Solein or Mr. Hart who
2 actually hired you?

3 A Ms. Solein.

4 Q Ms. Solein?

5 A Ms. Solein and ultimately David Wilhelm who
6 was the campaign manager, but Ms. Solein was the one
7 who talked to me about coming down to Little Rock.

8 Q Other than Solein, Hart and Wilhelm, did
9 you have to interview with anyone else?

10 A No.

11 Q No.

12 A And let me just be clear. I actually
13 didn't -- prior to joining the campaign, I didn't
14 interview with either John Hart or David Wilhelm.

15 Q So that means -- leaves just Stephanie
16 Solein?

17 A Yes.

18 Q Is that with an N or an M?

19 A N, S-O-L-I-E-N.

20 Q Okay. Now, you were deputy political
21 director, and Ms. Solein was national political
22 director, so I take it you reported to her?

1 A Yes.

2 Q Was there anyone else you reported to?

3 A No, not in the -- not at that time when I
4 changed positions, so to speak. I reported not
5 really to Stephanie, but more directly to -- to
6 George Stephanopolous.

7 Q And this change of position you referred to
8 is after the convention when you became national
9 surrogate director?

10 A That's correct.

11 Q Okay. During the time that you were deputy
12 political director, what were your -- what were your
13 duties in general?

14 A Mostly working with interest groups,
15 elected officials, both national and state and local,
16 and working with some, and when I say interest
17 groups, I mean sort of broad range of constituency
18 groups and -- I mean that was my general portfolio in
19 the early days of the campaign.

20 Q So is it accurate to say that groups were
21 interested in particular issues, you would have
22 contact with them and receive their input and tell

10

1 them where the candidate stood on the issues, that
2 sort of thing?

3 A That's right.

4 Q Give them materials?

5 A That's right.

6 Q Okay. Other than work of that sort, were
7 there other sort of general duties that you did
8 during the time you were deputy political director?

9 A During that time, I also was asked to help
10 on some of the issues that arose with respect to
11 allegations concerning then Governor Clinton, and
12 that was work that was not -- not obviously in the
13 scope of the political work that I was doing.

14 Q When you say you helped on issues, that
15 means, say, an issue would appear in the press that
16 would need responding to, and you would assist in the
17 response?

18 A Yes, yes.

19 Q So that would entail information-gathering
20 and the relaying of information to the media or
21 whoever needed it?

22 A Or people dealing with the media, yes, and

1 that was -- as I said, that was limited, and I was
2 not -- I was one person who assisted in some of that
3 in the early days of the campaign.

4 Q By "early days," are you talking about the
5 first weeks or months of '92, can you narrow that
6 down a little bit?

7 A January and February mostly, maybe March.
8 I think by April and May, I was -- there was an
9 operation in place that was staffed, and I'm not
10 clear on the exact dates, so -- I'm sure you sort of
11 have that chronology more than I have better than in
12 my mind.

13 Q Now, when you became national surrogate
14 director after the convention, what sort of duties
15 did you have then?

16 MR. COLE: Chris, I don't want to interfere
17 in your questioning. In view of the scheduling
18 difficulties which I'm facing today I think that
19 you're aware of, I wish you would really try to focus
20 in on the things that are relevant issues in the
21 resolution, for example, any inquiries, press
22 inquiries, concerning Whitewater which I assume is

12

1 where you're going.

2 I don't see any need to explore other
3 things she did for the campaign, because I'm very
4 pressed for time in depositions.

5 MR. BARTOLOMUCCI: Lance, let's be clear.
6 You're pressed for time, you knew we had two
7 depositions today.

8 MR. COLE: Okay, I'll make this simple
9 then. I'll start objecting to questions that are
10 outside the scope of the resolution, and you can go
11 ahead for a ruling from the chairman if you want.
12 But I'm not going to waste a lot of time on this.

13 So let's focus on what we brought the
14 witness in for and not explore the generalities of
15 the Clinton campaign, that's not what is in the
16 resolution.

17 MR. BARTOLOMUCCI: It's been our practice
18 in every deposition to get a general sense of what
19 the witness has done, you know, since secondary
20 education; that's all I'm trying to do here. I'll
21 come back around and focus more particularly upon the
22 campaign and Whitewater issues, but...

1 MR. STEWART: Have you been through the
2 deposition transcripts?

3 MR. BARTOLOMUCCI: I have.

4 MR. STEWART: A lot of this has been
5 covered.

6 MR. COLE: That's the other problem I have,
7 because a lot of this has been covered.

8 MR. BARTOLOMUCCI: Well, it's not my
9 intention to spend a lot of time laying this ground
10 work, but, you know, colloquies I think like this are
11 just going to make this deposition take longer than
12 it would have.

13 So, Lance, if you'll just trust my good
14 intentions, we'll get through this in time for you to
15 go to your other deposition or, you know, if you
16 think that's going to be a problem, maybe you can
17 call someone else to handle that one, but in any
18 event, let's keep going here.

19 BY MR. BARTOLOMUCCI:

20 Q What, in general, were your duties while
21 you were national surrogate director?

22 A I directed an operation that had surrogates

1 fill in for the President -- then Governor Clinton
2 and Mrs. Clinton at appearances and invitations that
3 they could not attend, that was the main purpose of
4 the surrogate operation.

5 Another purpose of the surrogate operation,
6 another thing I directed was when -- when issues
7 needed responding to where it would be helpful or
8 appropriate for somebody else other than the
9 candidate himself or one of the other principals to
10 respond to, we -- we developed a strategy of who
11 would do the responding and implementation to get
12 that done.

13 Q Now, you were also part of the transition
14 team; correct?

15 A That's correct.

16 Q And what were your duties during the
17 transition?

18 A Primarily working on the confirmation,
19 setting up the process for and working on the
20 conformations of the cabinet nominees.

21 Q Now, at some point you assumed a post in
22 the Department of Justice; correct?

1 A That's correct.

2 Q Okay. When did that happen?

3 MR. STEWART: This has been covered.

4 MR. BARTOLOMUCCI: I understand, and I want
5 to --

6 MR. STEWART: What's the usefulness of
7 doing it twice? Are you trying to catch her in
8 inconsistent statements?

9 MR. BARTOLOMUCCI: No, I'm not.

10 MR. STEWART: Why are we doing this?

11 MR. BARTOLOMUCCI: Because of the
12 completeness of this transcript.

13 MR. STEWART: There's only two transcripts,
14 you've very well-educated people.

15 MR. BARTOLOMUCCI: Well, thank you for the
16 compliment. You know, I think if, you know, you'll
17 withhold objecting to questions with respect to
18 background, we'll just move through this more
19 quickly.

20 BY MR. BARTOLOMUCCI:

21 Q I think the question on the table was when
22 you assumed the post within the Department of

1 Justice.

2 A I believe it was sometime in February of
3 '93 and, again, officially, I'm -- February or March
4 of '93.

5 Q And your title was deputy associate
6 attorney general; is that right?

7 A Not when I first joined the Justice
8 Department. When I first joined the Justice
9 Department, I was an assistant to the attorney
10 general.

11 Q And later deputy associate attorney
12 general?

13 A That's correct.

14 Q And in your capacity as deputy associate
15 attorney general, you reported to Webster Hubbell?

16 A That's correct.

17 MR. STEWART: You sweated it out of her.
18 Come on.

19 BY MR. BARTOLOMUCCI:

20 Q And when did you leave the Department of
21 Justice?

22 A January of this year, January of '96, I'm

1 not sure of the exact date.

2 Q And that -- okay. Your current post,
3 however, is as general counsel to the Department of
4 Transportation?

5 A That's correct.

6 Q All right. To refocus upon the '92
7 campaign. To what extent -- let me restart the
8 question.

9 During that period when you told me you
10 were helping on certain issues that would arise, was
11 there a specific portfolio of issues that you had?

12 A No, no. There were two main issues that I
13 did some work on, one was the Jennifer Flowers
14 allegation; second was all of the allegations with
15 respect to the draft, and those were the two main
16 issues.

17 MR. COLE: I think, Ms. McFadden, having
18 stated generally what those issues were, I don't know
19 whether Mr. Bartolomucci tends to ask any follow-up
20 questions on what you did with respect to those
21 matters, but if he does, I'm going to instruct you
22 not to answer.

1 MR. BARTOLOMUCCI: Lance, in the future,
2 would you wait and see what questions I do ask before
3 you lodge a preemptory objection?

4 MR. COLE: I'll use my own judgment as to
5 what statements I make, and when I make them, why
6 don't you proceed, but I wanted the witness to know
7 my position on that before you ask the question.

8 MR. BARTOLOMUCCI: I only say this because
9 you were trying to inform me to speed through this
10 deposition. And, you know, it's a two-way street; if
11 you want to make it in time for your second
12 deposition, you know, I think you should think twice
13 before making what may be unnecessary objections.

14 Actually, I had no intention to probe
15 further about Jennifer Flowers or the draft.

16 MR. COLE: Good, well, then we can go on.

17 MR. BARTOLOMUCCI: Okay, that's probably
18 about three minutes of time we wasted on that.

19 MR. COLE: The time is of lessor concern to
20 me than making sure this deposition stays within the
21 scope of the resolution.

22 Please proceed.

1 MR. BARTOLOMUCCI: I'm glad to hear that.

2 BY MR. BARTOLOMUCCI:

3 Q Now, you said that the Jennifer Flowers and
4 the draft were the major issues that you dealt with.

5 Did you ever handle any Whitewater-related
6 issues?

7 A I had minor involvement in dealing with the
8 Whitewater issue.

9 Q Can you be more specific as to what that
10 minor involvement was?

11 A Probably I mean a matter of hours.

12 Q Okay. Were these hours spent in meetings
13 or phone conversations or preparing memos? Can you
14 be specific as to the type of work that you were
15 doing?

16 MR. BARTOLOMUCCI: Off the record.

17 THE WITNESS: I spent a few hours, it may
18 have involved a phone call, I don't remember, but
19 mostly helping to review some documents. I did not
20 prepare any memo from that review.

21 BY MR. BARTOLOMUCCI:

22 Q You think you may have been on a phone

1 call?

2 A I just didn't want to suggest in saying
3 that I was reviewing documents that I didn't -- that
4 I didn't talk to somebody on the phone. I don't
5 remember. As I said, this was, you know, a matter of
6 an evening, so...

7 Q Okay. I'm not trying to trick you.

8 A No, I understand. I'm -- I just wanted to
9 clarify.

10 Q Do you have any memory of being on a
11 telephone conversation with Susan Thomases related to
12 Whitewater issues?

13 A I don't have any -- I don't have any direct
14 recollection of that, but it is -- it is possible
15 that in the course of my involvement, I was involved
16 in a telephone conversation that would involve more
17 people than just me, so I don't want to suggest that
18 I wasn't.

19 Q And just so we're clear what we're talking
20 about, when I say "Whitewater issues," I'm trying to
21 use that term very broadly to mean issues relating to
22 Whitewater Development Corporation, the Clintons

1 investment in the land deal called Whitewater,
2 anything having to do with Madison Guaranty Savings
3 and Loan, and also issues related to the Rose law
4 firm.

5 So in light of that definition, are your
6 answers heretofore still accurate?

7 A In light of that definition, my answers are
8 still accurate.

9 Q Okay. I think you told me that you
10 reviewed some documents.

11 Do you have a memory as to what documents
12 you reviewed?

13 A I do not -- I don't remember specific
14 documents. I with several other people reviewed
15 boxes of documents that were sort of a collection of
16 financial records, tax records. And I cannot recall
17 really what else were in these documents. I
18 don't -- I don't have a distinct recollection of
19 this.

20 Q What was the purpose of the document
21 review?

22 A As I recall, and as is now well-known, Jeff

1 Girth was working on an article with respect to
2 Whitewater, and -- and the purpose of this
3 document -- and document review is probably too
4 formal a term. This search through -- through some
5 boxes was to try to put together an accurate picture
6 of the investment of how much money the Clintons had
7 invested in Whitewater and how much money they had
8 either lost or made on that investment, as I recall,
9 that was the -- that was the purpose.

10 Q So then these would have been the
11 Clintons -- documents the Clintons were in possession
12 of about the Whitewater investment?

13 A I'm sorry, could you repeat that question?

14 Q Sure. It wasn't well-phrased.

15 These would have been the Clintons personal
16 financial or tax documents about the Whitewater
17 investment?

18 A I can't say -- given the fact that I
19 can't -- I cannot remember sort of what the full
20 collection of documents were, I don't -- I really
21 couldn't say certainly these were the Clintons
22 personal -- personal records. I believe there were

1 some tax documents in there that were the Clintons
2 and -- so...

3 Q Who did you work with on this document
4 review?

5 A I cannot -- I know that Loretta Lynch, a
6 young man whose name I cannot recall, who was sort of
7 a financial accounting-type who knew what he
8 was -- what he was doing with numbers, many of us
9 didn't. I believe John Hart was involved in this;
10 Gary Ginsburg. I'm sure there were others, I can't
11 remember.

12 Q Was there a person or persons at the
13 campaign who were designated Whitewater people?

14 A Loretta I guess I would say was the person
15 who was -- who was most involved at this -- at this
16 early stage.

17 Q Okay. Let's talk about exactly what you
18 mean by this early stage.

19 During this time that you were doing the
20 document review and maybe on a phone call, do you
21 have a sense of when during the first part of '92
22 that would have been?

1 A It was immediately prior within a matter of
2 days prior to the first Jeff Girth article, I don't
3 know when that is, I guess you do.

4 Q I think it's March 8th.

5 MR. COLE: March 8th.

6 THE WITNESS: So whenever that was, it was
7 immediately preceding that.

8 BY MR. BARTOLOMUCCI:

9 Q Okay. Other than the persons you've named,
10 can you think of anyone else with whom you had
11 interaction at the campaign on Whitewater issues?

12 A I know that David Wilhelm, although he was
13 not directly involved in this, was -- was somewhat
14 involved in sort of directing that some kind of
15 response would be prepared to the Girth article. So
16 peripherally I would say David Wilhelm, because I
17 don't want to not name people.

18 I do not recall whether I had any direct
19 contact with Susan Thomases on this, that is
20 possible, and I do not recall specifically. I may
21 have had a discussion with Jim Lyons with respect to
22 this.

1 Q Other than Loretta Lynch, is there anyone
2 you can think of who really took the lead on
3 Whitewater issues at the campaign?

4 A At this point in time?

5 Q At that point in time.

6 A At that point in time, I think -- I believe
7 Susan and Loretta were really people working on the
8 issue, to my knowledge. There may have been others.

9 Q How about later on?

10 A I really couldn't speak to later on,
11 because I was not involved in it then.

12 Q Okay. Now, I want to show you a document.
13 These are some handwritten notes produced to us by
14 Susan Thomases, it bears the Bates number ST22. The
15 packet I've given you, I think goes through SD28, the
16 first line says 2/20, then what appears to be TC
17 McFadden, and Loretta Lynch.

18 I interpret this to mean that you were on a
19 telephone conference with Ms. Thomases and Loretta
20 Lynch.

21 I want to give you a moment to examine the
22 document and see if this refreshes your recollection

26

1 at all about whether you had this phone conference.

2 MR. STEWART: You're representing these are
3 documents that both came from Ms. Thomases and you
4 believe that they were prepared by her?

5 MR. BARTOLOMUCCI: Yes.

6 MR. STEWART: Okay.

7 MR. BARTOLOMUCCI: Let's just go off the
8 record for a minute so you can have time to look at
9 this.

10 THE WITNESS: Okay, thanks.
11 (Discussion off the record.)

12 MR. STEWART: I would like to have a minute
13 to talk to Ms. McFadden.

14 MR. BARTOLOMUCCI: Sure.

15 BY MR. BARTOLOMUCCI:

16 Q Okay. We're back on the record.

17 Have you had a chance to review these
18 documents to your satisfaction?

19 A I've had a chance to look at them, yes.

20 Q Okay. Does this document refresh your
21 recollection as to whether you were on a telephone
22 conference with Susan Thomases and Loretta Lynch?

1 A No.

2 Q No?

3 A No.

4 Q Do you have any reason to believe that you
5 didn't have a telephone conference with Ms. Thomases
6 and Ms. Lynch in late February of '92? The question
7 is, do you have any reason to doubt that you were on
8 such a conference?

9 A No, but I'm --

10 MR. STEWART: Let me ask for one
11 clarification. You mean to imply that all of these
12 notes ST22 through 28 are apparently from a single
13 conversation?

14 MR. BARTOLOMUCCI: Well, just referring to
15 ST22.

16 THE WITNESS: The notation TC McFadden and
17 Lynch?

18 BY MR. BARTOLOMUCCI:

19 Q Right, just referring to that.

20 A No, I don't have any reason to state that I
21 was not on that telephone call with Susan Thomases
22 and Loretta Lynch, I do not recall a telephone call.

28

1 Q February 20th, '92 would be within the time
2 frame in which you were working on Whitewater issues?

3 A My specific recollection is that the work
4 that I did on Whitewater really was in the course of
5 a single day, the one evening of reviewing a couple
6 of boxes of documents. I don't remember anything
7 preceding that.

8 Q But you did say you thought it was possible
9 that there would have been a Whitewater-related phone
10 conversation?

11 A When I said that -- yes, I did say that.
12 And when I said that, I was -- again, I was mostly
13 referring to the fact that I could have been on the
14 telephone during that day; I do not remember this.
15 It is entirely possible that I was on the phone with
16 Susan Thomases and Loretta Lynch, but I don't
17 remember it.

18 Q Now, I think about halfway down the memo,
19 there's a reference to the New York Times and a
20 report which I'm thinking may be shorthand for
21 reporter, and it says it is asking about \$40,000
22 loan. I'll tell you I interpret that to mean an

1 inquiry from Jeff Girth, I don't know whether that's
2 true.

3 But you did tell me that you were working
4 on Whitewater in connection with Girth's inquiry into
5 the matter.

6 A Again, my recollection of my involvement
7 was with respect to this one evening and review of
8 documents. It is possible I was on the telephone
9 with Ms. Lynch and Ms. Thomases.

10 But as I think I stated, Ms. Thomases and
11 Ms. Lynch were the people that were -- were really
12 working on this issue and may have been on this -- on
13 a phone call, but I was not engaged in this issue,
14 except to my recollection -- except for the period of
15 time in which I assisted Ms. Lynch and several others
16 in reviewing documents, so that -- that's just to
17 clarify.

18 Q All right. We may have touched on this
19 before. But is it your memory that you were -- this
20 document review, this Whitewater work was before or
21 after Girth's article?

22 A As I recall, and it was immediately -- it

1 was immediately before the article was published.

2 Q Okay. The second line of the document
3 right after it says, TC McFadden, Loretta Lynch says
4 Hilary.

5 Do you have any memory of being on a phone
6 conference with Hilary Clinton involving Whitewater
7 issues?

8 A No.

9 Q Did you interact with Mrs. Clinton during
10 the campaign?

11 A Some, but very little.

12 Q And we can narrow it to this time frame to
13 the first few months of '92. Would that, again, be
14 your answer, some but little?

15 A Nothing to my recollection on the issue of
16 Whitewater.

17 Q Okay. As long as we're on it. Did you
18 have any interaction with Mrs. Clinton during the
19 campaign to the best of your recollection with
20 respect to Whitewater issues?

21 A No, no.

22 Q There's -- did you want to add something?

1 A No, that's okay.

2 Q There's some discussion here about an
3 interest deduction. Do you remember having any
4 involvement in the course of your work on Whitewater
5 about an interest deduction?

6 A No, not that I specifically recall, no.

7 Q Do you remember anything about a Sheffield
8 Nelson or a Jim Guy Tucker having to do with
9 Whitewater --

10 A No.

11 Q -- because, again, they're referred to
12 here?

13 A No, not -- I don't recall anything.

14 Excuse me. Can I just confer with and just
15 ask him a quick question?

16 Q Absolutely.

17 (Witness confers with counsel.)

18 MR. STEWART: I think I already made a
19 remark to this effect, but just from the face of
20 this, we can't be sure that these notes all reflect a
21 purported conversation or not with Ms. Thomases on
22 the subject. And I suspect you will ask Ms. Thomases

32

1 that, but you made no representation to us one way or
2 the other.

3 BY MR. BARTOLOMUCCI:

4 Q I'm just asking for your recollection.

5 A Right, right.

6 MR. STEWART: That's fine.

7 BY MR. BARTOLOMUCCI:

8 Q There's another reference in here to the
9 fact that the New York Times reporter will report
10 that Hilary's loan helped McDougal get around bank
11 limitations of loans to officers.

12 Does that ring a bell with you at all? I'm
13 referring to the part down here (indicating).

14 A No, it doesn't.

15 Q Okay. Was it safe to say, then, that you
16 have no memory of this conversation taking place much
17 less the substance of it?

18 A Exactly.

19 Q Okay. During the campaign, did you -- do
20 you have any recollection of an issue arising with
21 respect to Mrs. Clinton's representation of Madison
22 Guaranty before state agencies?

1 A I don't have -- I don't have a specific
2 recollection of that issue arising during the
3 campaign.

4 Q More generally, do you have a recollection
5 of an issue arising about Mrs. Clinton's work while
6 at the Rose law firm?

7 A Not -- well, can you be more specific? I
8 mean it's -- it may be that articles were written,
9 so -- so I had an awareness of issues arising, but
10 with respect to me, I don't recall being involved in
11 conversations or having any involvement in
12 discussions about that issue, but I may well have
13 known of issues arising.

14 Q Okay. Let's see if we can jog your memory
15 a little bit. I'm going to show you a document
16 called DKS28063, labeled a fact sheet on Whitewater
17 Development, and it's dated March 8th, 1992.

18 Do you remember seeing this document? I'll
19 go ahead and say your name is nowhere on it, but I
20 don't have any reason to believe you have seen it,
21 but I just want to know what your recollection is.

22 A I --

1 MR. STEWART: Can you make a representation
2 as to the source from which it was produced?

3 MR. BARTOLOMUCCI: It was produced by David
4 Kendall who is the Clintons personal lawyer.

5 MR. STEWART: That's the best you can tell
6 us?

7 MR. BARTOLOMUCCI: It is, though, I can
8 also tell you it came out of apparently a file of
9 documents of campaign material.

10 MR. STEWART: Okay.

11 THE WITNESS: I don't remember this
12 specific document. It's possible that I saw this
13 document during the campaign and, in fact, may have
14 been likely that I saw it during the campaign, but I
15 don't remember it.

16 BY MR. BARTOLOMUCCI:

17 Q Would you agree with me that this appears
18 to be a document which takes excerpts from the Girth
19 article and then responds to them?

20 MR. STEWART: It's says on the face of the
21 document.

22 MR. BARTOLOMUCCI: I just want to see if

1 that's also how our witness would characterize it.

2 THE WITNESS: Likely, yes, but I can't
3 necessarily tell that from the face of the document.
4 In fact, you told me the date the Girth article was,
5 I don't remember when it was, so...

6 BY MR. BARTOLOMUCCI:

7 Q I'm pretty sure it was March 8th, 1992.

8 A Okay.

9 Q I'll direct your attention to a particular
10 part of it. Just page 3 of the document we're now
11 looking at, and there's a label Number 5, there's
12 apparently an excerpt from the Girth article, and
13 then a campaign response.

14 Would you just take a moment to read that?
15 (Witness reviews the document.)

16 THE WITNESS: The whole --

17 BY MR. BARTOLOMUCCI:

18 Q No, just --

19 A Just this paragraph.

20 Q Just that paragraph which for the record is
21 the third paragraph on page 3.

22 Does that refresh your recollection at all

1 about whether there was an issue in the campaign
2 about Mrs. Clinton's representation of Madison before
3 state agencies and in particular the one regulated by
4 Beverly Bassett Shaffer?

5 A Can you ask your question again? I don't
6 understand what the question does -- whether there
7 was an issue in the campaign. I believe I said -- I
8 don't know what recollection you're trying to
9 refresh.

10 MR. COLE: I think we need to be clear
11 here. Mr. Bartolomucci, I'm sure will correct me if
12 I'm wrong, but all of these questions as I understand
13 them in this context go to your personal knowledge or
14 involvement as opposed to what you may have read in
15 the newspapers or read since.

16 So much has been written and published
17 about this, I realize it's difficult to separate what
18 you know from what you did in lieu at the time; but
19 to the extent you can, I think he's asking you to do
20 the latter, to testify about what you knew and did at
21 the time.

22 BY MR. BARTOLOMUCCI:

1 Q My question is, do you remember there being
2 an issue during the campaign about Mrs. Clinton's
3 representation of Madison Guaranty while she was with
4 the Rose law firm?

5 A I have a general recollection that it was
6 an issue during the campaign, but I don't have any
7 specific recollections of the issue during the
8 campaign.

9 Q Would you agree with me, though, that on
10 the basis of this document that appears to have been
11 an issue?

12 A I'm not -- I'm not sure -- I'm not --

13 MR. STEWART: I'm not sure that's a
14 question she can answer.

15 THE WITNESS: I'm not suggesting it was or
16 was not an issue during the campaign. I am only
17 speaking to my involvement with the issue, which I
18 don't recall having any involvement with the issue,
19 so that's --

20 MR. STEWART: We will ask that you don't
21 ask her to interpret the documents. She doesn't
22 remember seeing it.

1 MR. COLE: I agree.

2 MR. BARTOLOMUCCI: Part of my inquiry is to
3 see whether she has seen them, even though they may
4 not have her name on them.

5 BY MR. BARTOLOMUCCI:

6 Q And while we're doing that, this is a
7 document labeled DKS28346, and it goes on to 28347.
8 Have you ever seen this before?

9 A Give me a minute.

10 MR. STEWART: Did this also come from
11 Mr. Kendall?

12 MR. BARTOLOMUCCI: Yes. And it
13 was -- again, it was out of a campaign file.

14 MR. STEWART: I take it it was stapled in
15 the way it's currently stapled?

16 MR. BARTOLOMUCCI: No, it was just produced
17 sequentially, but the pages immediately prior and
18 after don't seem to be part of that document.

19 MR. STEWART: Okay.

20 THE WITNESS: I don't recall seeing this
21 article -- this document.

22 BY MR. BARTOLOMUCCI:

1 Q Do you recognize the handwriting on the
2 document?

3 A Not specifically, no.

4 Q Okay. I asked this only because this
5 appears to be a first person account of how Madison
6 Guaranty came to be a client of the Rose law firm,
7 and it appears to be written from the perspective of
8 Mrs. Clinton.

9 And so I was just -- I was trying to see if
10 you could help me out as to its authorship. I take
11 it your answer is no?

12 A I don't know. I don't know.

13 Q Do you have any knowledge as to whether
14 documents of this sort were prepared for Mrs. Clinton
15 in connection with the campaign?

16 MR. STEWART: Of what sort?

17 MR. BARTOLOMUCCI: By that I would mean
18 sort a narrative of Mrs. Clinton's involvement with
19 certain issues.

20 MR. STEWART: So your question is whether
21 the document's a narrative that was prepared for her
22 by others?

40

1 MR. BARTOLOMUCCI: That's right.

2 THE WITNESS: I don't have any knowledge of
3 that.

4 BY MR. BARTOLOMUCCI:

5 Q Okay. I know you said you haven't seen
6 this document itself. Does this sort of dot matrix
7 printing look familiar to you?

8 A You know, I couldn't say. No, it
9 doesn't -- so I guess it doesn't really look
10 familiar.

11 Q This is document DKS28335. It appears to
12 be a fax transmittal sheet.

13 My only question is, can you identify for
14 me whether this is Loretta Lynch's handwriting?

15 A It's been a long time. I couldn't -- I
16 couldn't verify that for sure for you.

17 Q Okay. During the time that you were at the
18 campaign, do you have -- did you have any knowledge
19 about the shredding of Rose law firm files by the
20 campaign?

21 A No.

22 Q Did you ever hear anything about the

1 shredding of law firm -- of Rose law firm files?

2 A No.

3 MR. COLE: Mr. Bartolomucci has phrased if
4 such shredding occurs. I think you may well
5 interpret his question to be, if any such shredding
6 had occurred, did you hear about it?

7 Go forward, please.

8 MR. BARTOLOMUCCI: I was only asking if she
9 had any knowledge or memory of it.

10 MR. COLE: I just want to make sure the
11 record is clear in case it is read into the public
12 hearing at some point, but please go forward.

13 BY MR. BARTOLOMUCCI:

14 Q Did you ever go to the Rose law firm while
15 you were with the campaign?

16 A Not that I can recall. No, I don't believe
17 I did.

18 Q Did you ever hear of other campaign workers
19 going to the Rose law firm, excluding, of course,
20 those who were Rose law firm employees?

21 MR. STEWART: Fair enough.

22 THE WITNESS: I don't -- I don't

1 specifically recall, but I believe that the
2 only -- the only time which I believe that I heard,
3 and I don't recall specifically, but I believe that I
4 heard that somebody from the campaign went to the
5 Rose law firm was this, again, one evening that I
6 spoke about it in terms of reviewing documents.

7 BY MR. BARTOLOMUCCI:

8 Q The same evening that you were reviewing
9 documents people went to the Rose law firm; is that
10 your testimony?

11 A I believe that somebody went to the Rose
12 law firm, yes, that evening.

13 Q Where did this document review take place
14 that you were engaged in?

15 A In the campaign headquarters.

16 Q Would that be in Little Rock?

17 A Yes, yes, sorry. Little Rock.

18 Q And do you have any understanding as to why
19 campaign workers went over to the Rose law firm?

20 A Again, I do not remember that specifically,
21 but I believe that's where the boxes were gotten that
22 we were reviewing.

1 Q So you believe the documents that you
2 reviewed had been at the Rose law firm?

3 A I believe so.

4 Q And someone --

5 A At least some of the documents, I believe.

6 Q Do you have any recollection as to what
7 time of the day or evening you did this document
8 review?

9 A To the best of my recollection, it was late
10 in the day into the evening.

11 MR. COLE: Was it on a weekday or a
12 weekend?

13 THE WITNESS: I cannot remember
14 specifically. It was either -- it was a Friday or a
15 Saturday, I think, but I don't remember -- I don't
16 remember which.

17 BY MR. BARTOLOMUCCI:

18 Q Do you have a sense as to how late into the
19 evening, 10:00 o'clock, midnight, you may have
20 worked?

21 A I don't remember. I don't remember
22 specifically. I think we worked pretty late.

1 Q Okay, fair enough. While you were at the
2 campaign -- or let me start again.

3 During the campaign, did you ever see Rose
4 law firm billing records?

5 A No.

6 Q Speaking of I happen to have a copy of Rose
7 law firm billing records which --

8 MR. STEWART: Where did you get those?

9 THE WITNESS: I'm so excited. I got to see
10 them.

11 MR. BARTOLOMUCCI: Let me state for the
12 record, I never saw these before January 5th of this
13 year.

14 MR. STEWART: Off the record.

15 (Discussion off the record.)

16 BY MR. BARTOLOMUCCI:

17 Q This is a stack of documents, the first one
18 is labeled DKS28298, and last one unfortunately has
19 the Bates number cut off, but I think it ends in
20 DKS29043. These are billing records of work done by
21 the Rose law firm for Madison Guaranty. They also
22 were produced to us by Mr. Kendall early this year.

1 If you would, just flip through them and
2 determine to your satisfaction whether you've ever
3 seen these documents before.

4 MR. COLE: I should note also,
5 Ms. McFadden, in the form they were originally
6 produced to us, those documents were 11 by 17 which
7 is larger than the copy that you have. And they were
8 also color copied to show red ink markings which will
9 also not show up on what you have.

10 So in their original form, they did not
11 appear as they appear in what's been handed to you,
12 if that's helpful in reviewing them.

13 MR. BARTOLOMUCCI: I believe all that's
14 accurate. I think some of the documents were, in
15 fact, 8 and a half by 11.

16 BY MR. BARTOLOMUCCI:

17 Q If you have any doubt based upon the form
18 of the documents, let me know.

19 A I've never seen them.

20 MR. COLE: The important thing is if you
21 don't -- I don't know whether she recalls seeing
22 these on the evening of the document review, but it's

1 important to know that the originals don't look like
2 the ones she's been given exactly.

3 MR. STEWART: Mr. Bartolomucci, I note that
4 many of the documents have what appear to be kind of
5 the way that -- the holes for a track to pull them
6 through a computer.

7 Were these still -- are some of these still
8 attached to each other kind of fold-out format or
9 were they just --

10 MR. COLE: No. Well, we really can't
11 answer that question, because we never saw the
12 original documents. They are given to the
13 independent counsel by Mr. Kendall.

14 MR. STEWART: And you got photocopies.

15 MR. COLE: We have color photocopies,
16 you're correct. What we were provided appear to be
17 color copies of computer -- what I would call
18 computer paper, large 11 by 17 computer paper.

19 MR. BARTOLOMUCCI: And just so the record
20 is clear, when we say the color copies, these were
21 not really in hues. There were some handwritten
22 notations in red; these are basically black and white

1 documents.

2 MR. STEWART: Okay. Take your time.

3 THE WITNESS: It appears -- I don't recall
4 seeing these documents. And, you know, I'm just
5 flipping through these quickly, and they are -- there
6 are different formats of billing records as I see.
7 So it's -- I'm not going through page by page, but I
8 don't recall ever seeing these billing records in
9 this form or other before you handed these to me.

10 BY MR. BARTOLOMUCCI:

11 Q While you were at the campaign, did you see
12 any records or documents that reflected work
13 performed by the Rose law firm for Madison Guaranty
14 Savings and Loan?

15 A I don't believe so.

16 Q While you were at the campaign, did you see
17 any records or documents which reflected work that
18 Mrs. Clinton did as an attorney?

19 A Not that I can recall, no.

20 Q Just to close the loop. While you were at
21 the campaign, do you recall seeing any documents
22 which reflected billings for -- on behalf of Madison

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1 Guaranty?

2 A Not that I can recall, no.

3 Q Do you remember any discussions during the
4 campaign about billing records?

5 MR. STEWART: In connection with Madison
6 Guaranty.

7 MR. BARTOLOMUCCI: I'm asking more
8 broadly. First of all, if -- if we need to be more
9 specific, we'll do that.

10 MR. STEWART: But you mean Rose law firm
11 billing records?

12 MR. BARTOLOMUCCI: Rose law firm billing
13 records.

14 THE WITNESS: I don't recall any
15 conversations about Rose law firm billing records.

16 BY MR. BARTOLOMUCCI:

17 Q Do you have any memory of questions arising
18 very broadly about billing records?

19 A No.

20 Q I don't think I have much more for you.

21 This is a document labeled CCBW776. Have
22 you ever seen that before?

1 A No.

2 MR. STEWART: Let your lawyer see this
3 first.

4 THE WITNESS: I only answer so quickly
5 because I don't have any recollection of seeing any
6 documents from Beverly Bassett Shaffer.

7 BY MR. BARTOLOMUCCI:

8 Q Okay. Would that also be true of these two
9 documents which are CCBW771 and CCBW881?

10 A Yes. I've never seen this memo from
11 Beverly Bassett Shaffer, the 771 document, and I do
12 not recall seeing this statement of Ms. Shaffer which
13 is the 881 document.

14 Q This is document labeled DKS28123. It's a
15 memo from Loretta Lynch to HRC, defense team.

16 My only question for you is, would you have
17 received a memo addressed to defense team?

18 MR. STEWART: Would you read the date?

19 MR. BARTOLOMUCCI: The date on this
20 document is March 19th, '92.

21 BY MR. BARTOLOMUCCI:

22 Q I'm not asking whether you received this

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1 document.

2 But just as a general matter -- let me
3 start like this: Was there an understanding in the
4 campaign as to what defense team would have meant or
5 who that would refer to?

6 A Not -- up until the point in time in which
7 Betsy Wright joined the campaign, I don't think there
8 was any kind of -- I don't know that anybody would be
9 able to identify who, quote, a defense team was in
10 the campaign.

11 Once Ms. Wright joined the campaign and
12 really set up a separate operation, there was an
13 identifiable group of people that were working on
14 that, but I -- and I'm not sure -- I don't recall
15 chronologically when that was that that operation got
16 set up.

17 So it's possible that at this point in
18 time, this was -- this was a shorthand term for
19 probably a fluid group of people, and I don't know if
20 I would have been included in that group of people at
21 this time or not.

22 Q I want to focus now on the period while you

1 were at the Department of Justice and in particular
2 the year 1993.

3 While you were there, during that time, did
4 you have any responsibility for criminal matters?

5 A No.

6 Q Were you involved in the appointment of
7 U.S. Attorneys?

8 A I was peripherally involved in the early
9 months of -- in the appointment of U.S. Attorneys,
10 yes.

11 Q So there came a time, didn't there, when
12 President Clinton asked for the resignation of all
13 the U.S. attorneys, and those slots had to be filled;
14 correct?

15 A Yes.

16 Q So was your involvement with filling those
17 slots?

18 A My main involvement was in helping to
19 identify people who were going to be interim U.S.
20 Attorneys before -- before the U.S. Attorney nominees
21 were, in fact, nominated and confirmed. I don't
22 recall and may have had some involvement in the

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1 actual nomination of U.S. Attorneys, but not great
2 involvement in that.

3 Q And would your involvement have been in the
4 way of assisting Mr. Hubbell?

5 A Again, are you back on the actual selection
6 of U.S. Attorney nominees?

7 Q Well, let's talk both about the interim
8 appointments and the actual nominees for the job.

9 A Okay. And I'm sorry -- give me the
10 question again.

11 Q My question was, was your involvement on
12 these two things in the manner of assisting
13 Mr. Hubbell or -- to rephrase it, was he also
14 involved in those same tasks?

15 A He was involved, yes. He was involved. I
16 only hesitate on terms of assisting, because it was
17 really the -- as I recall the attorney general who
18 was really the decisionmaker, so it was more
19 assisting her.

20 Q Do you remember having any involvement in
21 the appointment of Paula Casey to be the U.S.
22 Attorney in Little Rock?

1 A No, I don't recall.

2 MR. SGRO: For the record, I think it's
3 important to note here that you had earlier said that
4 the attorney general asked for the resignations of
5 all U.S. Attorneys, the Eastern District of Arkansas
6 the one that you specifically asked about, I think
7 it's important to note that Chuck Banks, who was the
8 Republican United States Attorney, had resigned
9 effective I believe it was March 1, and the
10 announcement asking for the resignation of U.S.
11 Attorneys had not come until sometime I believe in
12 early April, so there already was an interim United
13 States Attorney at place at that point in the Eastern
14 District of Arkansas, just so the record is clear.

15 THE WITNESS: That's accurate, yes.

16 BY MR. BARTOLOMUCCI:

17 Q Okay. I think I've now forgotten what you
18 told me about your involvement with Paula Casey, if
19 you had any.

20 A None that I recall, no.

21 Q Do you remember Mr. Hubbell having any
22 involvement in the appointment of Ms. Casey?

1 A No, I don't -- I don't remember. I don't
2 remember anything about his involvement.

3 Q Do you remember him at any time discussing
4 Paula Casey?

5 A The only thing that -- I have a direct
6 recollection of -- I have a direct recollection that
7 he remarked that the first time that he met Paula
8 Casey was in January of 1994 when we had a U.S.
9 Attorney conference; that's the only real memory I
10 have of him discussing Paula Casey.

11 Q Was this a discussion with you, or was he
12 saying it to someone else, do you remember that?

13 A I don't. I don't remember. I think it was
14 a side comment.

15 Q While you were in the DOJ, again focusing
16 on the '93 period, did you ever see any criminal
17 referrals?

18 A No.

19 Q And so you're clear in your mind, you know
20 what I mean by a criminal referral?

21 A Yes.

22 Q Okay. You never saw any criminal referrals

1 that related to Madison Guaranty Savings and Loan?

2 A No.

3 Q Did you ever hear any discussion of
4 criminal referrals related to Madison Guaranty during
5 that same time?

6 A Not that I have any recollection of, no.

7 Q I'm sorry. I want to show you several
8 documents again to see if you have seen them before.
9 There are actually several stapled together.

10 We've got one identified as 7039, and the
11 next one is labeled 1484 and also labeled GAC 393.
12 There's a document labeled 7041, and the last one is
13 numbered 6671.

14 And my question very simply is whether
15 you've seen any of these before.

16 Take as much time as you need.

17 (Witness reviews the document.)

18 THE WITNESS: I have seen some. I'm not
19 sure if I've seen each of these documents, my only
20 recollection is when shown by independent counsel and
21 not before. And I can't -- I cannot say for sure if
22 I was shown each of these documents. I have a memory

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1 of being shown at least some of those documents.

2 BY MR. BARTOLOMUCCI:

3 Q Just for the record. Can you identify for
4 us when you met with the independent counsel and saw
5 these documents?

6 MR. STEWART: Do you want me to look it
7 up?

8 MR. BARTOLOMUCCI: No, a month and year
9 would be fine, if you can be that general.

10 THE WITNESS: Summer of '95, is that -- I
11 believe summer of '95.

12 BY MR. BARTOLOMUCCI:

13 Q That's fine. So prior to that time, you
14 hadn't seen any of these?

15 A No.

16 Q He may have showed you some of them?

17 A Right.

18 Q While you were working with Mr. Hubbell,
19 did he ever mention April Breslaw?

20 A Not that I can recall, no.

21 Q Do you have any memory of him talking to
22 April Breslaw?

1 A No, I don't.

2 Q All right. Are you aware of any
3 contact -- again, this is during the time that you
4 were working with Mr. Hubbell, are you aware of any
5 contact Mr. Hubbell had with Rose law firm attorneys
6 on matters related to Madison Guaranty?

7 MR. STEWART: At the Justice Department?

8 BY MR. BARTOLOMUCCI:

9 Q While you were at the Justice Department.

10 A No, I don't have any recollection of that.

11 Q During the campaign, did you have any
12 involvement with Vince Foster?

13 A I may have met Vince Foster. I did not
14 work with Vince Foster during the campaign.

15 Q How about Bruce Lindsey?

16 A I did know Bruce Lindsey on the campaign
17 and what is -- what is your question beyond that?

18 Q Whether you had any involvement with him
19 during the campaign.

20 A With respect to Whitewater or any
21 involvement generally or --

22 Q Well, we'll start with Whitewater, but --

1 A Not that I can recall. I don't recall
2 having any conversations with Bruce Lindsey about
3 Whitewater.

4 Q Was there some nonWhitewater involvement
5 however?

6 MR. COLE: That can be answered with a yes
7 or no to start with.

8 THE WITNESS: Yes.

9 BY MR. BARTOLOMUCCI:

10 Q Was it a lot of involvement?

11 A No.

12 Q Do you remember having any involvement with
13 either Jim or Diane Blair during the campaign on
14 Whitewater matters?

15 A Not that I can recall, no.

16 Q How about Ely Segal?

17 A Again on Whitewater?

18 Q Right.

19 A No, not that I can recall.

20 Q John Foster?

21 A Not that I can recall.

22 Q Roger Martin?

1 A Roger Martin may be the young -- the young
2 accounting whiz that I referred to earlier whose name
3 I could not remember.

4 Q This would be the person that worked with
5 you during that -- the document review?

6 A I believe so. I believe so. I can't be
7 certain, but I believe so.

8 Q Again, the same question, involvement on
9 the Whitewater issues, did have any with Jim
10 Hamilton?

11 A Not that I can recall.

12 Q What about Kevin O'Keefe?

13 A Again, not that I can recall.

14 Q Betsy Wright?

15 A No.

16 Q During the campaign, were you a party to
17 any discussion about David Hale?

18 A Not that I can recall, no.

19 Q Were you party to any discussion about
20 Capital Management Services?

21 A No.

22 Q Were you a party to any discussion about

1 Dan Lassider?

2 MR. COLE: I would answer that yes or no
3 first, because there is a rather specific directive
4 in the resolution that we're working under as to the
5 activities relating to Mr. Lassider that are within
6 the scope's of the committee's inquiry.

7 THE WITNESS: I'm sorry, tell me again
8 your -- your question is.

9 BY MR. BARTOLOMUCCI:

10 Q The question is whether you had any
11 discussion during the campaign related to Dan
12 Lassider.

13 A Yes, I believe so.

14 Q What was the discussion?

15 MR. COLE: Before Ms. McFadden answers that
16 question, Mr. Bartolomucci, I would suggest that we
17 refer to the resolution itself and ask her if she had
18 any discussions concerning the language from the
19 resolution which is, quote, the bond underwriting
20 contracts between Arkansas Development Finance
21 Authority and Lassider & Company, and first ask her
22 if she had any discussions on that subject matter.

1 MR. BARTOLOMUCCI: I think it's more
2 advantageous and expeditious to ask her a broader
3 question.

4 MR. COLE: You may well believe that,
5 Mr. Bartolomucci, but I will tell you, and you
6 weren't here at the time the resolution was adopted
7 by the senate, but a great deal of time and effort
8 was spent negotiating and then voting upon the
9 language here.

10 There are certain matters relating to
11 Mr. Lassider that were specifically excluded. So I'm
12 going to insist that we limit this inquiry to what
13 this resolution authorizes.

14 MR. BARTOLOMUCCI: Well, I don't plan to
15 probe deeply if at all.

16 MR. COLE: We're not going to probe.

17 MR. BARTOLOMUCCI: If the answer goes
18 beyond --

19 MR. COLE: We're not going to probe at all
20 outside the scope of the resolution, zero. So why
21 don't you tell us, Ms. McFadden, whether you had any
22 discussion about --

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1 MR. BARTOLOMUCCI: The question I posed
2 is -- is a proper one, and the question is simply --

3 MR. COLE: The question is overbroad and
4 outside the scope. And I'm instructing the witness
5 not to answer, and you can either rephrase your
6 question or take other actions you deem appropriate,
7 but we're not having any inquiry that's outside the
8 scope of the resolution at this deposition.

9 MR. BARTOLOMUCCI: All right. Let's go off
10 the record for a minute.

11 (Discussion off the record.)

12 MR. BARTOLOMUCCI: I'll withdraw the prior
13 question.

14 BY MR. BARTOLOMUCCI:

15 Q Did you have any discussion during the
16 campaign about Dan Lassider and bond underwriting?

17 A No, not that I can recall.

18 Q Were you a party to any discussion during
19 the campaign about Dan Lassider and Lassider &
20 Company?

21 MR. COLE: Again, the only way that
22 question is within the scope of the resolution is if

1 it pertains to bond underwriting for AHDA or the
2 Arkansas Housing Development Authority.

3 MR. BARTOLOMUCCI: Lance, we have never
4 conducted depositions that way. It's perfectly
5 permissible to ask a question which could conceivably
6 draw an answer broader than the resolution but which
7 could also garner an answer which is within it, and
8 when you're dealing with events that happened several
9 years ago, I think it's important to phrase the
10 questions generally so that, you know, we get some
11 sort of memory.

12 If I'm -- to phrase it extremely precisely,
13 I might be missing something which is well within the
14 resolution, but it is captured by the witness'
15 memory.

16 Do you seriously have an objection to the
17 last question I asked?

18 MR. COLE: You're simply incorrect in what
19 you stated. You have not been attending the
20 depositions relating to the Lassider & Company aspect
21 of this inquiry, and I can assure you that this very
22 issue has come up and it's been resolved by myself

1 and Bob Giuffra.

2 And the scope of inquiry is strictly
3 limited to the subject matter, that's very carefully
4 referenced in the resolution. And we absolutely are
5 not starting with the broad inquiry and working back
6 to what's in the resolution.

7 MR. BARTOLOMUCCI: And I don't feel I've
8 asked for a broad inquiry. I've asked about Dan
9 Lassider and Lassider & Company, which is an entity
10 specifically listed within the resolution.

11 MR. COLE: And if you read the phrase that
12 follows that in the resolution, which was put there
13 for specific limiting purposes, it says the
14 underwriting activities of Lassider & Company between
15 Arkansas Development Finance Authority and Lassider &
16 Company.

17 So Lassider & Company generally, Dan
18 Lassider generally is not within the scope of the
19 resolution; that limiting language was put there
20 intentionally, and it has a very particular meaning.

21 BY MR. BARTOLOMUCCI:

22 Q Did you have any conversations during the

1 campaign about Dan Lassider and the Arkansas
2 Development Finance Authority?

3 A No.

4 Q You're sure of that?

5 A Not that I can recall.

6 Q Now, I'm going to assume that you did have
7 discussions about Dan Lassider, that seems to be an
8 implication of what you said before.

9 MR. COLE: You don't have to respond to
10 that.

11 BY MR. BARTOLOMUCCI:

12 Q Did you have any discussions during the
13 campaign about Lassider and Dan Lassider and any bond
14 matter?

15 MR. STEWART: Well, we need to sort this
16 out, Mr. Bartolomucci, that is actually beyond the
17 scope.

18 MR. COLE: It is. I mean if the answer is
19 no, I'm not going to prolong this unnecessarily. She
20 can say no just for the purpose of getting this over
21 with.

22 I suspect the answer is no, but the

1 resolution does not authorize the general inquiry at
2 the Lassider company's bond underwriting activities
3 or any aspect of Lassider & Company's business.

4 So if the witness wants to consult with her
5 counsel before answering that's fine, but her
6 counsel's objection is well taken I think.

7 BY MR. BARTOLOMUCCI:

8 Q Is the answer no?

9 A Can you repeat the question?

10 Q The question is whether you had any
11 discussions during the campaign about Dan Lassider
12 and any bond matter.

13 A Not that I can recall.

14 Q Did you have any discussion during the
15 campaign about Marlin Jackson?

16 A Not that I can recall.

17 Q Did have any discussion during the campaign
18 about Beverly Bassett Shaffer?

19 A Not that I specifically recall, no.

20 Q Do you have any -- do you have any memory
21 during the campaign of events that took place during
22 the campaign that related to Rick Massey?

1 A I'm sorry, can you repeat your question?

2 Q Sure, it wasn't well-phrased.

3 First let me ask, did you have any

4 discussion during the campaign that related to Rick
5 Massey?

6 A Not that I recall.

7 Q Are you aware of any discussions during the
8 campaign that concerned Rick Massey?

9 A Not that I specifically recall, no.

10 Q Is there anything you want to add for the
11 record just to make your testimony today complete?

12 MR. STEWART: Well, Mr. Bartolomucci, I'm
13 not going to let her answer that question, that's a
14 trick question, the FBI applies to everybody.

15 Thank you. If you have a specific
16 question, please place it.

17 MR. BARTOLOMUCCI: I don't have a specific
18 question. You don't have to answer that.

19 At this point, our normal procedure is to
20 allow minority counsel to ask any questions they
21 have, so I'll turn the show over to Mr. Cole.

22

1 EXAMINATION

2 BY MR. COLE:

3 Q I do have a couple follow-up questions,
4 Ms. McFadden.

5 You testified about a review of documents
6 that took place in the campaign headquarters in
7 Little Rock, and you also testified that your
8 understanding was that some of the documents came
9 from the Rose law firm; is that correct?

10 A Yes, it is. Again, I use the term review
11 of documents very loosely.

12 Q You said that someone went to the Rose law
13 firm from campaign headquarters to gather the boxes
14 of documents, do you know who went to get them?

15 A I don't recall.

16 Q Was it someone from the campaign staff?

17 A I believe so, and I just -- I can't recall
18 who specifically it was.

19 Q And do you have any recollection as to
20 whether those documents were documents that
21 Mr. William Kennedy who at that time was a partner in
22 the Rose law firm had collected while representing

1 Mrs. Clinton on matters relating to Whitewater
2 Development Corporation? Does that refresh your
3 recollection at all as to what was taken from the
4 Rose law firm?

5 A I do not -- I do not recall and do not know
6 who had the documents, where they were gotten from in
7 the Rose law firm. To the best of my recollection, I
8 have a vague recollection of it being said that there
9 were some -- that there were some of the Clintons
10 documents at -- at the Rose law firm, not
11 that -- that there were Rose law firm documents that
12 we were getting.

13 Q That's the distinction I wanted to get at.
14 And I realize this is very difficult, because it's
15 been a long time, and this was only one evening.

16 But I think you've shed some light on this
17 for us, because you testified, to the best of your
18 recollection, you didn't review any billing records,
19 you did not review any billing records?

20 A That's correct.

21 Q And then the other distinction I would draw
22 would be between working files of the Rose law firm

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1 for representation of clients other than the
2 Clintons, such as Madison Guaranty, on the one hand,
3 and on the other hand, files at the Rose law firm
4 that were either the property of the Clintons or were
5 collected by the Rose law firm in representing the
6 Clintons.

7 Do you have a recollection as to which of
8 those two categories of documents you reviewed?

9 MR. BARTOLOMUCCI: And do you understand
10 that question? I'm not sure I do.

11 MR. COLE: Ms. McFadden has practiced law,
12 she probably understands it.

13 THE WITNESS: To the extent that this is
14 responsive, let me say this, that I've said a couple
15 of times, a review of documents is a -- may be too
16 particular a term, the documents or the papers would
17 probably be a more accurate term that we looked at
18 were clearly not, to my recollection, law firm
19 files.

20 They were disorganized piles of papers in
21 boxes. I do not recall seeing any law firm files in
22 those papers.

1 BY MR. COLE:

2 Q And by "law firm files," you mean labeled
3 files of the kind that are normally found in a law
4 firm with a client name and matter; is that what you
5 mean by law firm files?

6 A Yes.

7 Q Okay. And do you know what happened to the
8 documents after you reviewed them on the evening that
9 you testified to?

10 A I do not know.

11 Q Was Mr. Foster there that evening?

12 A No.

13 Q Was Mr. Hubbell there that evening?

14 A Mr. Hubbell was not at the campaign
15 headquarters, no.

16 MR. COLE: I don't have anything further.

17 EXAMINATION (Continued)

18 BY MR. BARTOLOMUCCI:

19 Q I just have a few more follow-up questions,
20 and starting along the lines the ones that Mr. Coal
21 asked you.

22 Was William Kennedy present at the campaign

1 headquarters that evening?

2 A No.

3 Q Do you have any idea as to whether he was
4 involved in retrieving the files?

5 A Not that I know of, no.

6 Q Do you have any sense as to how many people
7 were involved in getting the files?

8 MR. COLE: By "getting the files," do you
9 mean obtaining the files or do you mean the review,
10 and I use the word loosely as she testified?

11 BY MR. BARTOLOMUCCI:

12 Q By getting, I mean retrieving them, by
13 taking them from the law firm to campaign.

14 A I don't recall. I don't recall how many,
15 no.

16 Q Is it your understanding that the documents
17 were brought to the campaign from the Rose law firm
18 the same day that you reviewed them?

19 A I believe so.

20 Q I think you just testified that you didn't
21 see any law firm files in the documents that you saw,
22 that's right?

1 A That's correct.

2 Q Did you see all of the documents that were
3 brought over to the campaign?

4 A No, I certainly could not say that I saw
5 all of the papers that were brought over to the
6 campaign. I do not have a vague recollection of
7 having sort of scanned the boxes that -- that were
8 our -- the task before us.

9 Q Do you have a sense of the quantity of
10 records that were obtained? You can express it in
11 terms of boxes or red wells or anything.

12 A Again, this was not organized enough to
13 even be in red wells, to my recollection. Boxes I
14 cannot -- I cannot recall how many boxes, more than
15 one, less than five, but I'm just not sure.

16 Q Now, you said that a number of people were
17 involved in reviewing these documents, right --

18 A Yes.

19 Q -- at the campaign? Did you divy up the
20 documents amongst people?

21 A I don't recall how we went about this.

22 Q And you don't have any knowledge or

1 understanding as to what happened to the documents
2 subsequent to the review?

3 A No.

4 Q To your knowledge, were any documents
5 returned to the Rose law firm?

6 A As I testified, I don't know.

7 Q Subsequent to the review, were you involved
8 in any discussion about the fact that the campaign
9 had brought these documents from the Rose law firm
10 over to the campaign?

11 A Not that I can recall.

12 Q So you didn't talk about it afterwards?
13 You didn't talk about obtaining the documents?

14 A Not that I can recall, no.

15 MR. BARTOLOMUCCI: Okay, that's all I
16 have.

17 EXAMINATION (Continued)

18 BY MR. COLE:

19 Q I think you may have answered this as best
20 as you can. I'll ask it again one more time, did you
21 have an understanding at the time you were reviewing
22 these documents as to whether they were personal

1 documents of the Clintons or Rose law firm files?

2 Whose documents were they, the Clintons or
3 the Rose law firm's?

4 A It is -- to the best of my recollection, it
5 was my understanding that they were the Clintons
6 papers.

7 MR. COLE: Thank you, I don't have anything
8 further.

9 EXAMINATION (Continued)

10 BY MR. BARTOLOMUCCI:

11 Q Again, you're not sure that you saw every
12 document, is that right, you didn't see every
13 document?

14 MR. COLE: My question went to what was
15 brought from the Rose law firm, to the extent you can
16 answer that question, not necessarily what you
17 personally reviewed, but your understanding of what
18 was obtained from the Rose law firm, I think that's
19 clear.

20 THE WITNESS: My understanding was that the
21 papers that were obtained were the Clintons papers.
22 And, no, I did not review every piece of paper that

1 were in the boxes.

2 MR. BARTOLOMUCCI: Okay.

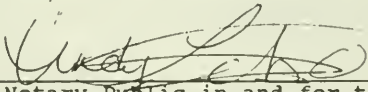
3 (Thereupon, at 3:05 p.m., the deposition
4 was concluded.)

5
6 -----
7 NANCY McFADDEN
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

77

I, CINDY L. SEBO, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

ROPES & GRAY
ONE FRANKLIN SQUARE
1301 K STREET, N.W.
SUITE 800 EAST

WASHINGTON, DC 20005-3333
(202) 626-3900

FAX: (202) 626-3981
WRITER'S DIRECT DIAL NUMBER: (202) 626-3010

ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2084
(617) 931-7000
FAX: (617) 931-7050

30 KENNEDY PLAZA
PROVIDENCE, RI 02903-2328
(401) 499-4400
FAX: (401) 499-4401

July 17, 1996

By Telecopy

Robert J. Giuffra, Jr.
Chief Counsel
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
Washington, DC 20510-6075

Re: Deposition transcripts of Nancy McFadden

Dear Mr. Giuffra:

I attach an errata sheet identifying errors of transcription in the deposition transcripts of the testimony of Nancy McFadden, a client of this firm, before the Special Committee to Investigate Whitewater Development Corporation and Related Matters, on July 7, 1995 and February 15, 1996.

Because these transcripts were mistakenly directed to Ms. McFadden at the Justice Department, they were not delivered to her at the Department of Transportation until last week. Accordingly, we were unable to provide these corrections until today. In a telephone conversation, your staff indicated that this should not be a problem.

Very truly yours,

David O. Stewart

David Overlock Stewart

Enclosure

cc: N. McFadden
DOS/bw: 7026983.01

ERRATA

[illegible]

**DEPOSITION OF MICHAEL J. GAINES
IN RE: S. RES. 120**

FRIDAY, FEBRUARY 16, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MICHAEL J. GAINES, called for examination pursuant to notice of deposition, at 1:30 p.m. in Room 534 of the Dirksen Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.
Majority Associate Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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P R O C E E D I N G S

MR. O'CALLAGHAN: Good afternoon, Mr. Gaines. My name is Michael O'Callaghan. I'm Associate Special Counsel for the Majority to the Special Committee. To my left is Jim Portnoy, Associate Special Counsel for the Minority.

The deposition today is being conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority and other related matters.

This deposition is in advance of public hearings which are likely to occur later this month. It's likely that you will be asked to testify at the hearings.

We're going to ask you a series of questions today. We're going to ask you to testify under oath. If you don't understand a question,

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please let either me or Mr. Portnoy know and we'll be happy to rephrase the question. If you need a break also, please let us know and we'll be happy to take a break whenever you would like.

The stenographer is preparing a record of questions and answers. The deposition will be treated as committee confidential until the commencement of the hearings.

Prior to the hearings we will provide you with a copy of your deposition so you can review it, make any corrections on an errata sheet and also review it for purposes of preparing for the hearings.

Are you aware that you may be represented by counsel today?

THE WITNESS: Yes.

MR. O'CALLAGHAN: Are you represented by counsel today?

THE WITNESS: No.

MR. O'CALLAGHAN: Objections to the form of questions will be noted for the record and objections on grounds of privilege or relevance can be made.

1 And if the witness refuses to answer a question, that
2 being you, the chairman can rule on those objections
3 and will do so if that's necessary. Could you please
4 swear the witness.

5 Whereupon,

6 MICHAEL J. GAINES

7 was called as a witness and, having first been duly
8 sworn, was examined and testified as follows:

9 EXAMINATION

10 BY MR. O'CALLAGHAN:

11 Q Could you please state and spell your full
12 name for the record.

13 A Michael Johnston Gaines, M-i-c-h-a-e-l,
14 J-o-h-n-s-t-o-n, G-a-i-n-e-s.

15 Q Are you aware of any document requests that
16 have been made by the committee in relation to the
17 Arkansas state police communications bond
18 underwriting?

19 A As far as to me, requests to me? No.

20 Q Requests to anybody. Have you been
21 apprised of any document requests?

22 A Can I show you something here?

6

1 Q Sure.

2 A About 10 minutes after Mr. Brenner called
3 the other morning, I got a call from a reporter at
4 Associated Press who made reference -- I did not take
5 the call, but a secretary did -- and he subsequently,
6 later in the day, faxed me a letter wanting to know
7 if I would talk to him. And he made reference to two
8 memos that I'm not familiar -- I mean, right off, I'm
9 not familiar with, but those apparently he either had
10 or had access to. That's the only thing I'm aware of
11 as far as any documents.

12 Q Why don't we -- off the record for a
13 moment.

14 (Discussion off the record.)

15 BY MR. O'CALLAGHAN:

16 Q Back on the record.

17 We went off the record to -- while we went
18 off the record, Mr. Gaines provided us with a copy of
19 a fax cover sheet and an attached letter that he said
20 he received from a reporter, and I'm just going to
21 identify it for the record.

22 The first page has Associated Press

1 masthead on it, a fax transmission cover sheet to
2 Michael Gaines from Peter Yost, Y-o-s-t, and it's a
3 phone number 202-776-9400. And the second page is
4 the letter addressed to Michael Gaines, U.S. Parole
5 Commission, faxed to Mr. Bracey at 1-301-492-5307 and
6 it's signed Peter Yost, the Associated Press.

7 Mr. Gaines, did you also say that you
8 received a phone call from Mr. Yost?

9 A Yes, he called and spoke to a secretary in
10 the office shortly after Mr. Brenner had called --
11 what was that, the morning of the 13th, I guess. I'd
12 say within five to 10 minutes of my conversation with
13 Mr. Brenner. I did not take the call, and I
14 understand that the secretary referred him to the
15 Department of Justice, public information folks down
16 at main Justice.

17 He called back sometime later in the
18 morning, spoke to the same secretary and indicated
19 that he had been told by those folks that since it
20 did not involve my capacity as a parole commissioner,
21 that they wouldn't be handling it. And he was
22 wanting to know if I would speak to him and indicated

1 to her that he would be sending a copy of a letter to
2 me, explaining what he was wanting to talk about.

3 He did, shortly after noon I believe I
4 received this. And I did not choose to call Mr. Yost
5 back so I did not talk to him.

6 Q Okay, thank you. Prior to this deposition,
7 did you speak with anyone about your appearance here
8 today?

9 A I told my wife, I told the -- a lot of the
10 folks at my office were aware that -- I mean the girl
11 that took the message was up in the front of the
12 office, so it was pretty common knowledge to those
13 three or four people that were up in that portion of
14 the office. I did advise the other commissioners
15 because I was going to take personal leave to come
16 down, so I did do a very short memo to the chairman,
17 advising him that I would be off this afternoon and
18 the reason.

19 Q When you say that the secretary in the
20 front took the call from the office, are you talking
21 about the call from the Special Committee or the call
22 from the reporter?

1 A She took the call initially from
2 Mr. Brenner, and she also took the call from Mr. Yost
3 as well.

4 Q Did she say that Mr. Yost said anything
5 about your appearance today?

6 A No.

7 Q Whether he had any knowledge of that?

8 A She didn't indicate that.

9 Q She learned about it through Mr. Brenner's
10 call; is that right?

11 A Apparently so, yes.

12 Q Did you speak with anyone else?

13 A I'm trying to think. I told two friends
14 that I talked to in Arkansas, Peggy Tucker and Tom
15 Parker.

16 Q What were the substance of those
17 discussions?

18 A They're friends that -- Peggy I had worked
19 with on the governor's staff. Tom Parker had been
20 director of one of the agencies that I was liaison to
21 at the Arkansas highway safety program. We've been
22 friends since that time and we talk periodically, and

10

1 I simply mentioned to them that I was going to be
2 giving a deposition.

3 Q Did you have any discussions about what the
4 potential substance of the deposition would be?

5 A No.

6 Q What was Ms. Tucker's position when you
7 worked with her?

8 A She was a case worker on the governor's
9 staff.

10 Q What did a case worker do?

11 A She would handle -- if someone called, say,
12 with an AFDC problem or -- primarily when I would
13 deal with her, I dealt some with the prison and a
14 family member of an inmate that was not getting
15 certain items they were needing or whatever and were
16 wanting help with that. She handled those types of
17 things, a full range of just basic case work stuff.

18 Q Over the last three years, have you had any
19 discussions with anyone at the White House? Let me
20 strike that.

21 Did you speak with anyone at the White
22 House about this deposition?

1 A No.

2 Q Anyone else you can think of that you may
3 have spoken to?

4 A No.

5 Q Did you do anything to prepare for this
6 deposition, review documents?

7 A No. I reviewed the letter that Mr. Yost
8 had and tried to -- I mean, just mentally recalled
9 matters around that period of time. But as far as
10 reviewing any documents or anything or talking to
11 anyone, I did not.

12

13

14 Q Are you currently employed?

15 A Yes.

16 Q Where are you employed?

17 A United States Parole Commissioner,
18 Department of Justice.

19 Q How long have you worked there?

20 A Since September of -- it's been about a
21 year and a half, so that would be September '94.

22 Q Are you a college graduate?

12

1 A Yes.

2 Q Where did you attend college?

3 A University of Arkansas, Little Rock.

4 Q What year did you graduate?

5 A Received my bachelor's in '73.

6 Q Have you done any graduate work?

7 A Yes, I have a law degree from the same
8 school that I received in 1977.

9 Q Could you give me a brief description of
10 your employment history since you graduated from law
11 school?

12 A I was in private practice for part of a
13 year immediately after graduating.

14 Q Was that in Little Rock?

15 A In Little Rock, in -- I believe it was in
16 August or September of 1978, I went to work for the
17 Arkansas Department of Correction. I was assigned to
18 assist the state parole board as a parole hearing
19 examiner. Do you want any details on what I did in
20 that capacity?

21 Q No. What you did next would be great.
22 Actually, what firm did you work for initially?

1 A I soloed. Solo practitioner.

2 Q Tough row to hoe.

3 A Oh, tell me about it. I wasn't going to
4 get into that. It was not one of my more lucrative
5 enterprises. It was tough.

6 Let's see. I worked at the Department of
7 Correction from '78 until early '83, and that's when
8 I went and joined Governor Clinton's staff as pardon
9 and extradition counsel. I was in that position
10 until -- and I'm really not sure when the transition
11 was made. The public safety liaison was the title of
12 the job that I ultimately went into, but he left
13 in -- I think in late '84 or early '85, and there was
14 a period of time in there when we were hiring a new
15 pardon and extradition counsel. And then ultimately
16 I assumed part of his responsibilities as public
17 safety liaison, so that would have been -- it would
18 have probably been early '85 when I actually took
19 that title in the office.

20 I was there until January of '86. I left
21 the governor's staff at that time and became
22 executive secretary for the Arkansas Supreme Court

14

1 committee on professional conduct, the attorney
2 ethics office.

3 I did that for three years, until July of
4 '89. At that point the state parole board, the law
5 had changed to have some full-time members of that
6 board. It had been a part-time board prior to that.
7 And the governor appointed me chairman of the
8 full-time board, parole board, in July of '89.

9 I had been appointed to the part-time board
10 a year prior to that, so I had been serving in that
11 part-time capacity since June or July of '80 -- I'm
12 getting my -- of '86. Yes.

13 And then I was chairman of the Arkansas
14 parole board until I assumed the position on the U.S.
15 Parole Commission in September of '94.

16 Q When you served as a public safety liaison,
17 that was as part of the governor's staff?

18 A Yes.

19 Q And what did those duties entail?

20 A I served as the governor's liaison to
21 several agencies, primarily -- I had previously
22 served as his liaison to the parole board and I

1 continued to do that. I had previously served as
2 liaison to the Arkansas highway safety program, and I
3 continued to do that as well.

4 All of this did not happen at once, but
5 over the period of time that I was public safety
6 liaison, I served either as the liaison or functioned
7 somewhat in that capacity for the Arkansas law
8 enforcement training academy, sort of as an
9 unofficial liaison to the various county sheriffs,
10 the various prosecutors around the state, the state
11 police. I'm sure there were others.

12 The Department of Corrections, I think --
13 anyway, Arkansas Department of Corrections. That's
14 all I can think of. I'm sure there were some
15 other -- duties would kind of come and go at times,
16 but I didn't completely pick up some of the agencies
17 that had been part of the public safety
18 responsibilities before, and I'm thinking of like the
19 National Guard, the department of emergency services,
20 and I'm sure there were others.

21 Q How did you come to be hired onto the
22 governor's staff?

16

1 A I made application. I was interested in
2 basically being a liaison to Corrections. And I had
3 been a hearing examiner for the Department of
4 Corrections for five years, and shortly after the
5 governor took office, I sent a letter asking for
6 consideration.

7 Q Who hired you?

8 A I was interviewed by Betsey Wright and
9 Bobby Roberts. And who actually made the decision, I
10 assume it was Betsey Wright that -- and the governor
11 or a combination.

12 Q Are you familiar with the bond underwriting
13 that was undertaken in 1985 to provide capital for
14 the purchase of a new police radio system for the
15 state of Arkansas?

16 A I am familiar to the extent that I attended
17 the meetings when the various companies that were
18 bidding on that project made their presentations. I
19 was --

20 Q Were those the underwriting firms that were
21 doing the financing?

22 A Yeah, I think so.

1 Q Versus the people providing the equipment?

2 A Now, that I'm not sure. It seems like that
3 there were some Motorola people in attendance maybe
4 at those things. I came in -- it was during a period
5 of transition from Bobby Roberts leaving the staff
6 and me coming on, and I believe it was during or
7 after a legislative session, maybe.

8 So as far as being familiar with the
9 mechanics of the process, I was not at all. But I
10 was in attendance at the commission meetings and
11 aware that the negotiations were going on, or that
12 there was a bidding process going on to select
13 someone for this project.

14 MR. PORTNOY: Could I just ask, when you
15 said "meetings," did you mean by that commission
16 meetings?

17 THE WITNESS: Yes, state police commission,
18 uh-huh.

19 BY MR. O'CALLAGHAN:

20 Q When did you first begin attending those?

21 A I'm really not sure. I do remember,
22 though, attending one -- the one when they made their

18

1 formal presentations.

2 Q The oral presentations?

3 A Right, right. And I don't know when that
4 was.

5 Q Did you attend meetings before that of the
6 state police commission?

7 A I may have. I'm really not -- I'm not
8 sure. I attended a number of the commission
9 meetings, but I don't know when I started having that
10 responsibility.

11 Q Did there come a time where you had
12 responsibility for tracking the financing for the
13 state police radio system?

14 A I don't believe so. I'm not sure I
15 understand the question, but as far as understanding
16 the mechanics of the negotiations or how the project
17 was funded, I never understood that, I hate to say.

18 Q What was the purpose of your attending the
19 commission meetings where this subject was discussed?

20 A It would have been I'm sure the same as it
21 was with all. I attended board of correction
22 meetings, the law enforcement training academy

1 commission's meetings, state police commission
2 meetings, was basically -- we always had someone from
3 the governor's staff present. We were not
4 participants in the meetings but we were present at
5 all of those meetings.

6 Q And was there anyone who sent you to the
7 meetings, or who told you that you should be at the
8 meetings? Or is that just part of your job?

9 A It was part of the job, and you would
10 get -- you would usually get a copy of the press
11 release or whatever. Those were public meetings, and
12 normally you would be on the list, the agency's list
13 to receive a copy of a press release.

14 It could as well have come -- a lot of
15 times when they had a meeting, at the end of the
16 meeting they would set the date for the next one.
17 But normally we would get a reminder either --
18 usually through a press release but maybe by a phone
19 call from someone with the agency, reminding us that
20 a meeting was coming up.

21 Q Did anyone else from the governor's office
22 attend those meetings with you?

20

1 A You know, I'm sure that over the period of
2 time that -- I may have attended some meetings with
3 Bobby Roberts when he was public safety liaison. I
4 may have -- and I'm not sure about this, but I may
5 have attended a meeting for him when he was
6 unavailable, same with correction board meetings.

7 After he left and after we had hired
8 another pardon and extradition counsel, she would --
9 I can't recall specific times, but I'm sure that she
10 attended some of those meetings as well.

11 Q Did Sam Bratton attend those meetings?

12 A I don't remember ever seeing Sam at one.
13 It's possible, but I don't recall that.

14 Q And do you know who Sam Bratton is?

15 A Yes, yes.

16 Q I should have asked you that first.

17 A Yes, I do.

18 Q What was his position during that time
19 period?

20 MR. PORTNOY: Could we go back one step?
21 When you say "meetings" -- you testified that you
22 attended meetings, commission meetings. I just want

1 to clarify that we're talking about commission
2 meetings of the police commission or any meeting.

3 MR. O'CALLAGHAN: That's where the question
4 was starting.

5 MR. PORTNOY: I just want to be clear.

6 THE WITNESS: I assumed we were talking
7 about the state police commission meetings.

8 BY MR. O'CALLAGHAN:

9 Q That's all we're talking about now. If
10 it's different I'll let you know.

11 A Okay. I'm sorry, your last question? What
12 capacity was Sam Bratton serving?

13 Q What position did he hold?

14 A Well, I guess he was legal counsel. I
15 don't know what his exact title was at that time, but
16 I know legal matters generally were handled by him, I
17 assume, at that time.

18 Q Legal counsel, was that like a legislative
19 oversight position?

20 A That I don't know. I just -- I'm thinking
21 that he had either that title or something similar to
22 that, and I don't know -- I don't know if that was

22

1 during the whole time that I was there on the
2 governor's staff, but that's the only title I can
3 remember.

4 Q When you were at the various police
5 commission meetings, that includes commission
6 meetings and it also includes subcommittee meetings
7 that dealt with the police radio financing, if you
8 recall?

9 A I don't recall. It's possible that -- I
10 don't even recall there being a subcommittee, but it
11 makes sense that there probably was. I don't
12 remember that.

13 Q What was your purpose for going to the
14 meetings? What role were you playing with regard to
15 your responsibilities to your office?

16 A We were there I guess to show -- for one
17 thing, to show an interest on behalf of the
18 governor's staff or the governor in the functioning
19 of the various agencies. They were -- I don't think
20 we really had Cabinet per se like you do in the
21 federal system, but they were akin to a Cabinet level
22 agency -- and to observe, to be available if any

1 questions came up or if they had any concerns that
2 they wanted conveyed back to the governor. And
3 generally, while I'm sure I didn't do it in all
4 cases, I'm sure I would have reported back in a
5 number of instances what took place at the meetings,
6 and that could have been either through memo or
7 verbally.

8 Q Did you write up hearing reports after
9 going to meetings or to hearings?

10 A Hearing reports?

11 Q Did you write up like written reports after
12 every meeting you attended?

13 A I doubt that I did every meeting, but I'm
14 sure I did in some cases, not just with state police
15 but with other boards and commissions.

16 Q And if you wrote up a report, who would
17 that be addressed to?

18 A Nearly everything that we did would have
19 been directed -- it would have gone to the chief of
20 staff. I would normally -- it was fairly common for
21 me to address stuff to Governor Clinton/Betsey Wright
22 or BC/BW, depending on whether I was doing a quick

24

1 memo or one that I spent some time on. But it was
2 understood that all the memos would go first to the
3 chief of staff.

4 Q Was the chief of staff your immediate
5 supervisor?

6 A Yes.

7 Q Did anyone else have supervisory
8 responsibility toward you?

9 A Not in between, but I guess ultimately the
10 governor did.

11 Q And did you supervise anyone at this time?

12 A We had -- there was -- we had a secretary.
13 The secretaries, though, were all supervised by an
14 office manager, so I don't think I had any direct
15 supervisory responsibilities.

16 Q So your recollection is that you first
17 became the public safety liaison in early 1985?

18 A I believe that's correct.

19 Q Would that have been -- was that the first
20 time that you became involved in any way with the
21 underwriting for the police radio system or reporting
22 on it?

1 A I wouldn't -- I don't think I was involved
2 in any way other than reporting on it, but that would
3 have probably been -- that would have probably been
4 the time that if I had reported back, that that would
5 have -- that's probably when I would have begun doing
6 that.

7 Q You didn't do it previous to your position
8 as public liaison?

9 A Not that I'm aware of. Unless I had
10 attended something on behalf of Bobby Roberts prior
11 to his leaving.

12 Q When did you first become aware that anyone
13 in state government had begun working on financing
14 options for the underwriting or financing of the
15 police radio system?

16 A I truly don't know. I know I was aware at
17 the time of the commission meeting when -- that we
18 had discussed earlier -- when the presentations were
19 made. I know I was aware at that point. When prior
20 to that, I do not know.

21 Q I would like to show you a multipage
22 document that bears the Bates stamps DKS N 017938

1 through 17940. It's a three-page letter on T.J.
2 Raney & Sons, Incorporated letterhead and it's dated
3 January 4, 1985. It's addressed to Mr. David
4 Moseley, Arkansas state police. It's re: proposed
5 acquisition of new radio communications equipment,
6 \$22 million in anticipated cost. It is signed by
7 Paul B. Young, vice president. Paul B. Young, Jr.,
8 excuse me.

9 There's some handwritten notations which
10 appear on the front page in three different
11 locations, and I believe that's it. Take a quick
12 moment to look at that. I'm going to ask you a
13 couple questions with regard to the document.

14 A You're wanting me to focus on this rather
15 than the whole thing (indicating)?

16 Q I'm going to ask you about the document in
17 general, but I'm also going to ask you about the
18 handwriting that appears on it as well, yes, sir.

19 (Witness reviewed the document.)

20 You can just read the first paragraph.

21 A Okay, sure.

22 Q If I have additional questions I'll direct

1 you to those portions. Tell me when you're
2 finished.

3 A Okay. I'm through.

4 Q My first question is, have you seen this
5 January 4, 1985 letter before?

6 A I do not recall ever seeing it.

7 Q There's some handwritten notations that
8 appear on the first page of the document. Do you
9 recognize any of the handwriting that appears on the
10 document?

11 A No, I can't say that I do. No.

12 Q You don't recognize any of that?

13 A No, I don't.

14 Q During the time that you were public safety
15 liaison, did you have any interaction with Sam
16 Bratton?

17 A Concerning this or just --

18 Q Concerning this, yes.

19 A I don't recall having any. I don't believe
20 I did.

21 Q And when I say "concerning this," I'm
22 talking about issues associated with the police radio

28

1 underwriting.

2 A Not that I recall at all.

3 Q And I would like to direct your attention
4 to the first paragraph which reads "Dear David, over
5 the past few months we have been discussing the
6 financing options available for the above project,"
7 which is the proposed acquisition of the radio
8 communications equipment.

9 In or around January of 1985, were you
10 aware whether Moseley had been engaged in discussing
11 financing options with anyone at T.J. Raney & Sons?

12 A I don't believe I was.

13 Q Who is David Moseley?

14 A That's what I'm trying to figure out, too.
15 That name doesn't ring a bell. Apparently he was
16 with the state police, it looks like, but I don't --
17 now, I may know him, but right now the name doesn't
18 sound familiar.

19 Q Do you recall whether he was a fiscal
20 officer for the state police department? Does that
21 help refresh your recollection?

22 A Yeah, I believe it does. I think I do

1 know. I was trying to think of like a major or
2 captain with the state police, and I don't know if he
3 was a civilian employee or what, but that does help.
4 I believe he was their budget person or fiscal
5 person.

6 Q Did you have any contact with him with
7 regard to the state police radio system in 1985 at
8 any time?

9 A I'm not aware of it. I mean, I could have
10 talked to him, I could have seen him at the
11 commission meetings or whatever. I don't have any
12 recollection of any specific conversations with him
13 about the system, though.

14 Q Were you on a circulation list for any of
15 the materials associated with the underwriting with
16 regard to either legislation being proposed or
17 financing being proposed or equipment being proposed?

18 A I don't think I was. It looks to me like
19 we're talking January '85, and I'm assuming that
20 they're talking about -- I see legislative counsel
21 here, so there must have been legislation involved.
22 And I guess it was the -- the session would have

1 started in February or so of '85.

2 Generally I was not -- well, to back up, I
3 don't think I was doing the state police stuff at
4 that point, and I don't have any recall of being
5 informed of them even making efforts to get a radio
6 system at that point.

7 Q But at any time were you on a distribution
8 list for materials associated with the underwriting
9 with regard to either financing proposals or
10 legislative proposals?

11 A Some of those things -- after I was
12 technically public safety liaison, some of that stuff
13 may have come through me or been directed through my
14 office.

15 Q Who would have sent you those materials?

16 A I'm thinking, say, if something was coming
17 from Colonel Goodwin, the state police director or
18 whatever, that it -- and I guess I'm basing part of
19 it on what's in this here (indicating).

20 Q I want your independent recollection.

21 A I don't really recall, no, I don't.

22 Q Okay. I'm going to have some documents

1 that might -- may or may not help you remember.

2 A Good.

3 Q I realize it was a while ago. Were you
4 generally aware of the activities surrounding the
5 state police planning to acquire a new police radio
6 system at this time? Was it abuzz in the news or
7 were you interested in it in your position?

8 A You know, I was when I became aware of it,
9 but I'm not sure when I became aware of it. I know
10 that there had been concerns expressed by the state
11 police and by other officials about the inequities of
12 the system they had and that they were needing a new
13 system. But that awareness, I don't know if that
14 came before they sought to get a new system or if it
15 was while they were in the process of going through
16 these negotiations to award the contract. I don't
17 know -- I know at some point I was aware of their
18 perceived need for a new system, but I'm not sure as
19 far as the time.

20 Q Did you attend any meetings outside of
21 state police commission meetings where the subject of
22 the police radio underwriting took place?

1 A I don't recall attending any. It's
2 possible. I don't remember.

3 Q Did you ever review any of the proposals
4 that were submitted by different underwriting
5 companies who were attempting to get the underwriting
6 business for the radio system?

7 A I know I had copies at some point, and that
8 may have been when they made their presentations. I
9 think they passed out copies of their proposals, and
10 I'm not sure if I had access to those prior to that
11 or not. I don't know if they had been distributed to
12 the commission and Colonel Goodwin and the governor's
13 office and all prior to those presentations.

14 Q I would like to show you a multipage
15 document. At the top of the letter it says "T.J.
16 Raney & Sons, Inc., E.F. Hutton, Lasater & Company."
17 Across the top dated February 25, 1985, directed
18 toward "Colonel Thomas L. Goodwin, director, Arkansas
19 state police," and it's regarding the state police
20 communications financing. And the Bates range is
21 DKSJ 017894 through 179 -- excuse me, through 17904.
22 Actually I'm sorry. It's through 17913.

1 I'm going to ask you general questions
2 about the document. I'm not going to ask you to
3 verify anything in it.

4 A All right.

5 Q The first question I have for you, looking
6 at the document, seeing it's dated February 25, 1985,
7 I'll ask you if you've ever seen this document
8 before.

9 A I don't believe I have.

10 Q Were you aware of whether any proposals
11 were being submitted to state police in or around
12 February of 1985?

13 A I don't know. I doubt if I did at that
14 early stage.

15 Q Why do you think you might not -- you
16 wouldn't have known that at that time?

17 A Well, I'm basing that on the fact that that
18 was apparently during the legislative session. I'm
19 trying to gauge things from that time frame, and I
20 don't believe that I was involved. And you know, I
21 can't say for sure, but I don't recall that I was
22 involved to any extent with the state police or the

1 state police commission at that point.

2 Q So your involvement grew after the
3 legislative session?

4 A That's my recall.

5 Q And you think that was around the time of
6 February?

7 A February, March, April period of '85, yeah.

8 Q After you became more involved with this
9 issue, after legislative session, were you ever told
10 that proposals had been sent at an earlier time or
11 that they had already been received?

12 A I don't recall if I was or not. I was at
13 some point aware that proposals were received, but I
14 don't know when that was.

15 Q I would like to direct your attention to
16 Bates number 17905. It's entitled Exhibit A, for
17 "an act authorizing the leasing of communications
18 equipment for the department of the Arkansas state
19 police providing for the payment and security of the
20 cost of equipment and further purposes."

21 Did you ever hear that proposals were sent
22 before the legislative session or during this time

1 period, with attached proposals for -- authorizing
2 legislation for the leasing of communications
3 equipment?

4 A I don't believe I was.

5 Q Thank you.

6 A That's not the law. That's just a
7 proposal, right.

8 Q I would like to show you a document which
9 bears a Bates stamp DKS N 017800. It's difficult
10 saying these Bates stamps over and over again.

11 I'll give one to you and one to Minority
12 counsel. Need to make sure he knows what I'm looking
13 at. Take a moment to review it and then I'll ask you
14 some questions about it.

15 A Okay, sure.

16 (Witness reviewed the document.)

17 Q Document Bates stamp 17800 is a one-page
18 document consisting of handwritten notes. Top left
19 hand portion appears to say "3-4" with an underline
20 and then a series of names, "Paul Young, M. Drake,
21 John Selig, Mahlon, Joe, Mike G."

22 MR. PORTNOY: For the court reporter,

1 M-a-h-l-o-n.

2 BY MR. O'CALLAGHAN:

3 Q And then there's some text that follows
4 it. My first question is have you ever seen this
5 document?

6 A I don't believe I have.

7 Q Are you familiar with any of the names that
8 appear on the top of the document? Start with Paul
9 Young.

10 A Okay. I know there was a guy named Paul
11 that, I don't know who he was with, but he was
12 involved -- I think he was somehow involved with the
13 Raney Lasater Hutton, he worked for one of those
14 three companies, I think.

15 M. Drake, John Selig, no, those do not ring
16 a bell.

17 Mahlon may have been Mahlon Martin, who
18 was -- was he the director of Finance and
19 Administration at that time? He may have been.

20 Joe, I don't know who that would have
21 been. Mike G., I don't know if that would have been
22 me, Michael Gauldin or Mike -- what was that guy's

1 name? Mike Graves? Anyway, there was somebody who
2 was an assistant to Mahlon Martin over at the
3 department of financing Administration named Mike. I
4 know we had the same initials; Mike G.

5 And Joe may have been someone that worked
6 at DF&A, Department of Finance and Administration,
7 but I'm not sure about that. But Mahlon, that is the
8 way that Mahlon Martin spelled his name, as I recall.

9 Q Looking at the names here, do they appear
10 to be names of people that were all involved in the
11 state police radio financing?

12 A I don't know because some of the names I
13 don't recognize. I don't know M. Drake or John
14 Selig. I don't know who Joe is and I'm not sure who
15 the Mike G. would be. Mahlon Martin, I guess if he
16 was director of Finance and Administration, would in
17 some way be involved in anything involving contracts
18 or expenditure of state revenues.

19 Q Did you ever meet anyone from Lasater &
20 Company? Did you meet --

21 A I mean, I'm sure I met some of these folks,
22 but I don't know who worked for whom.

1 Q Does the name Michael Drake ring a bell?
2 Did you ever meet someone by that name?

3 A Yeah, yeah, that's who that is, I'm sure.
4 I did meet Michael Drake. I imagine I met him at the
5 same time I met Paul, I think, at that state police
6 meeting, I would think, the commission meeting.
7 Yeah, I do know who he is.

8 Q Did you meet with them -- your recollection
9 is you met them at a police commission meeting?

10 A Yeah, and -- yes.

11 Q Did you ever have any meetings with them
12 outside of the commission meetings that you know of?

13 A I don't know. You know, during that time I
14 would get phone calls occasionally. I can't remember
15 any specifically, but it's possible that either one
16 of those individuals could have called the governor's
17 office and the call had been routed to me. Now,
18 whether I had any -- I don't recall any sit-down
19 meetings with any of them. But again, I mean it's
20 not impossible that that would have happened, but I
21 don't recall that.

22 Q Did you have any meetings with any of the

1 people involved in the underwritings or any of the
2 potential underwriters? Do you remember any meeting
3 with any of them or did they request any meetings?

4 A I don't recall any.

5 Q The next name after M. Drake is John
6 Selig.

7 A Yes. I don't recognize that name.

8 Q Do you recognize the handwriting that
9 appears on this document?

10 A No.

11 Q Did you do any work with Bob Nash while you
12 were at the governor's office?

13 A Some.

14 Q What was your interaction with Mr. Nash?

15 A Of course, it was a fairly small office, so
16 everyone knew everyone. I know at one point we moved
17 into an office that he had just -- either he had just
18 moved out of or he moved into an office we were just
19 moving out of. But we -- I don't recall any work,
20 really any work related things, unless during a
21 legislative session or something we may have been
22 reviewing, some pieces of legislation for the

40

1 governor. I don't recall any.

2 Q Did he have any involvement with the police
3 radio underwriting?

4 A That I don't know.

5 Q I think I asked you earlier, but I don't
6 know if I followed up with regard to whether you had
7 any interaction with Mr. Bratton on the police
8 underwriting.

9 A Not that I recall.

10 Q Are you familiar with his handwriting?

11 A I don't believe -- I'm sure I'm not.

12 Q I have one more question on the document on
13 an excellent suggestion by Mr. Portnoy to clarify.
14 I'll give credit where credit is due.

15 The names that appear on here, Paul Young,
16 M. Drake, John Selig, Mahlon, Joe, Mike G., do you
17 have any recollection of attending a meeting with the
18 individuals that you know or that you're familiar
19 with that are listed there?

20 A I do not recall meeting with them, no.

21 Q Have you ever attended a meeting with
22 Mahlon Martin?

1 A I'm sure I probably have, but I couldn't
2 tell you when or for what. I know the governor would
3 meet with his various agency heads at times and I've
4 been to one or two of those, and Mahlon would have,
5 I'm sure, been at those.

6 Q Other than that?

7 A Not that I can recall, no.

8 Q Okay, thank you. Did you ever review any
9 of the numbers involved with the finance proposals
10 for the underwritings or underwriting for the police
11 state radio system?

12 A I'm sure I had -- I don't recall whether I
13 did or not, but I'm sure that I had access to that
14 type of thing during that negotiation -- or that
15 bidding process.

16 Q I would like to show you a one-page
17 document, DKSJ 027485 Bates stamp. It's a one-page
18 document entitled "Arkansas State Police
19 Communications system, Financing Alternatives." Then
20 it lists approximately 11 different alternatives with
21 varying lengths, contract amounts, a column
22 indicating down payment amounts, another column

1 indicating financed amount, another column indicating
2 annual payment. And then there's also a column
3 without a heading on it, has three numbers in the
4 column. It looks like there's a handwritten note
5 that says "final payment." That's my best
6 interpretation.

7 And the next column reads "approximate
8 interest rate," and then the final column on the far
9 right says "total cost" and has figures for that
10 underneath. On the bottom of the page, there appears
11 to be a number, 000071.

12 My first question is, have you seen this
13 document before?

14 A I don't recall seeing it.

15 Q Directing your attention to the 000071 at
16 the bottom of the page, are you familiar with any
17 system of control numbers that look similar to the
18 one that appears there?

19 A No.

20 Q Thank you. I'm going to show you another
21 document, part of the fun of a deposition.

22 A Yes.

1 Q It's a multipage document Bates stamped
2 DKS 017843 through 17853, and I'm just going to ask
3 you some general questions about it. Off the
4 record.

5 (Discussion off the record.)

6 BY MR. O'CALLAGHAN:

7 Q Back on the record.

8 I just handed you a document, multipages.

9 The first page appears to be a cover letter on
10 Mitchell, Williams, Selig, Jackson & Tucker
11 letterhead dated March 8, 1985, addressed to Mr. Sam
12 Bratton, office of the governor. It's re state
13 police financing bill. It's signed by John S.
14 Selig.

15 And then the remainder of the document is
16 identified in the cover letter which I will read
17 quickly. "Enclosed is an original and three copies
18 of an amendment which will substitute the language of
19 the bill we discussed over the phone today for the
20 language of the existing bill. Please review the
21 amendment and let me know if you have any questions
22 or want me to do any redrafting. With best regards I

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1 am cordially yours," and then signed John Selig.

2 I believe what we've copied here is just
3 one copy of the bill, to cut down on copying expense
4 for the committee. I believe it's a full copy of a
5 draft -- of the original that's referenced in the
6 cover page.

7 The first question is, have you ever seen
8 this document before?

9 A I don't recall ever seeing it.

10 Q Were you familiar with any of the efforts
11 being taken to write authorizing legislation for the
12 state police radio financing?

13 A I don't believe I was.

14 Q Looking at this memo or the letter on the
15 first page, does that refresh your recollection as to
16 whether you know who John S. Selig is?

17 A No.

18 Q Thank you. This is just a question about
19 your general knowledge about how the office of
20 governor functioned, whether it would be -- whether
21 it was unusual for Mr. Bratton to be working on
22 drafts of legislation with an outside law firm.

1 A I don't know. In the positions that I held
2 there, we were not -- we would review legislation
3 that was submitted, attempt to analyze it during the
4 session, but I'm not at all familiar. We didn't
5 draft legislation in the area that I was in, and I'm
6 not at all familiar with what Mr. Bratton's
7 involvement was in that regard. I have no idea.

8 Q Do you have knowledge of whether any of the
9 underwriters that were involved in the bidding
10 process for the state radio, police radio financing,
11 whether they hired any firms to draft legislation?

12 A I have no knowledge of that.

13 Q Do you know whether Mr. Bratton worked in
14 conjunction with underwriters and a law firm to draft
15 the legislation to enable the financing of the police
16 radio system?

17 A No, I don't know.

18 Q So you didn't review the authorizing
19 legislation for the police radio bill?

20 A I'm sure at some point I saw the law once
21 it was passed. Whether I saw it prior to that while
22 it was just in bill form, I don't have any recall

1 that I did.

2 Q And I just showed you a draft a moment ago
3 that was attached to the letter.

4 A Right.

5 Q Did that help refresh your recollection?

6 A I don't remember seeing the draft.

7 Q This might help refresh your recollection,
8 too, if whether at any point the legislation that was
9 being contemplated to authorize the financing of the
10 police radio bill, whether that was tied in with any
11 programs or financing involving the Department of
12 Corrections?

13 A No, I don't. I do recall discussion about
14 whether the Department of Corrections would be able
15 to benefit from the new system, but that was just in
16 general discussion of people at the department saying
17 that they hoped they could somehow get on the
18 system. A lot of law enforcement people around the
19 state were interested in doing that.

20 But as far as involvement in participating
21 in it, I'm not aware of that.

22 Q So you didn't have any role in reviewing a

1 bill that included that?

2 A Not that I recall.

3 Q Or that included other programs for
4 department of corrections tied in with the police
5 radio financing?

6 A I could have because I saw more things
7 related to department of corrections than I did for
8 state police.

9 MR. O'CALLAGHAN: Is everyone agreeable to
10 a quick break here?

11 (Recess.)

12 BY MR. O'CALLAGHAN:

13 Q Back on the record.

14 Earlier I showed you a document with
15 handwritten notes on it, and there was -- I'll show
16 it to you and make sure we're clear. It's DKS
17 0177800. And we were talking about the names listed
18 on the top of the page and I asked you about the
19 reference to Mike G. And you said you thought it was
20 either Mike Gauldin or perhaps a Mike G. who was
21 assistant to Mahlon Martin, Department of Finance and
22 Administration. Who was Mike Gauldin?

1 A Mike Gauldin was the governor's press
2 person. I don't know what the title was, public
3 information officer or -- press secretary, I think.
4 I doubt that it was him, but -- and I wish I could
5 think of the guy's name. It's Mike Grimes, Graves,
6 something like that, that has been over at the
7 Department of Finance and Administration for a number
8 of years. And I'm just -- I'm truly speculating, but
9 it may be him.

10 Q Do you know if the person at the Department
11 of Finance and Administration, is that the name of
12 the department?

13 A Yes.

14 Q Do you know if he's still there?

15 A I believe he is, yes. He was when I left
16 in late '94.

17 Q Great, thank you.

18 A He was a career person.

19 Q Are you aware of whether anyone from
20 Lasater & Company had discussions with anyone in the
21 governor's office regarding the police radio bond
22 underwriting?

1 A I'm not aware. Like I say, I know -- I'm
2 sure I had conversations with Paul and Michael,
3 Michael -- was that the name?

4 Q Michael Drake.

5 A At some point. Now, whether it was
6 concerning any of the details of it or calling to say
7 what's the status, when do you think the state police
8 is going to make a decision, whatever, I don't
9 recall.

10 But as far as -- first of all, I did not
11 then and do not now understand the bond underwriting
12 business, so --

13 Q I think Mr. Portnoy and I have been in a
14 similar situation in depositions we have been
15 taking. Not surprisingly.

16 A But it's truly one of those things that for
17 some reason has never clicked in my brain, so if they
18 had a conversation with me, it wouldn't have been
19 very productive or meaningful. And I don't recall
20 that.

21 Q Do you know if other members of the staff
22 had meetings with them?

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1 A I do not know.

2 Q Did anyone in the governor's office have
3 any contact with anyone in the state police
4 commission regarding the selection of the
5 underwriters for the police radio underwriting
6 project?

7 A I am not aware if they did or not.

8 Q Do you know if there was ever a preference
9 expressed to the governor's office about which
10 underwriting group they would like to see do the
11 underwriting for the police radio?

12 A I don't recall anything being stated.

13 Q Are you aware of any preference that
14 existed?

15 A No.

16 Q I'm going to show you a document,
17 multipages again, Bates stamps DKS N 027582 through
18 27586. And it's a five-page document entitled
19 "minutes of Arkansas state police commission
20 meeting, April 4, 1985." And it's the minutes of the
21 meeting, and I would like to have you take a moment
22 to review it, and I'll give a copy to Mr. Portnoy as

1 well.

2 A Okay, sure.

3 Q I'm going to ask you about some specific
4 things that are described in the document with regard
5 to the commission meeting that occurred on April 4,
6 1985.

7 A All right.

8 Q I just wanted to do a quick description of
9 what appears on the front page. It says it's a
10 regular monthly meeting of the state police
11 commission, and it lists the members of the
12 commission that were present, which include Bill
13 Simpson, Chester Hynes, Johnny Mitchum, Gene Raff,
14 James M. Tennyson. And then it has a number of --
15 actually lists members absent, which include Winthrop
16 Paul Rockefeller, the secretary, and James D.
17 Mashburn, who was the vice president and a number of
18 state police personnel, Colonel T.L. Goodwin, Major
19 Tim Tyler, Major Byrne Jackson, Captain Richard Rail,
20 Lieutenant John Chambers and Mr. David Moseley.

21 Then another heading reads "others
22 attending," and the list reads "Mr. Mike Gaines,

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1 office of the governor, Mr. Randall Miller, Attorney
2 General's office, Mr. Mike Stormes, state budget
3 office."

4 A That's the guy I was thinking was the Mike
5 G.; it's Stormes. So you may want to change your
6 note. That's who I was thinking about.

7 Q So that wouldn't have been the person
8 referenced in the earlier handwritten note?

9 A Probably not.

10 Q And then we have Ed Erxleben, state
11 purchasing office, Dudley Meadows, state purchasing
12 office, Bob Hardin, friend of Mr. Mitchum, Bo
13 Marshall of Commissioner Rockefeller's office. Then
14 there's a subsection or subheading of that which
15 reads "representatives from Lasater & Company, E.F.
16 Hutton & Company and T.J. Raney & Sons," then a list
17 there, "Michael Drake, Ms. Anne Ritchey, Mr. Bill
18 Woodyard, Mr. Paul Young and Mr. Robert Brown."

19 My first question is, have you seen the
20 minutes of this meeting before?

21 A I don't believe I have.

22 Q Did you attend an April 4 meeting of the

1 police commission?

2 A I don't have any personal recall of
3 attending it, but according to this I did. And it
4 would have been normal for me to have attended it,
5 yes.

6 Q And would this have been one of the first
7 meetings you attended or had you attended meetings
8 prior to this? Again, this is April 4.

9 A April 4. You know, I'm not sure whether --
10 I would say that there's a good likelihood that I had
11 attended a meeting or two prior to this, but this
12 would have been one of the earliest meetings I would
13 have attended after Dr. Roberts had left.

14 Q And just on the second page, 27583,
15 quarterly minutes noted for the record, under new
16 business, heading which begins on the previous page,
17 reads House Bill 944, which is a bill to enable the
18 department to enter into a lease purchase agreement
19 for the communications system.

20 Then the next page there's a heading, a
21 little less than halfway down the page, reads "State
22 Police Communications Act." Do you see that?

1 A Yes.

2 Q And it states "the House Bill 944 which is
3 not at this time assigned by the governor," and it
4 talks about the authorizing -- proposed authorizing
5 legislation.

6 Then if we go down a little further down, I
7 guess four paragraphs down, I'll read a portion of
8 what it says here in the record. It says "A
9 recommendation was made that a financial team be
10 selected as soon as possible so that they may be
11 involved in the negotiations with Motorola. After a
12 lengthy discussion between members of the commission,
13 Mr. Ed Erxleben and Dudley Meadows of state
14 purchasing and representatives of several financing
15 firms concerning procedures to follow relating to the
16 acquisition and financing of the communications
17 equipment, the commission agreed to begin immediately
18 the process of selecting a financial institution to
19 handle the financing."

20 My first question is, do you recall the
21 discussion that occurred between -- with state
22 purchasing folks and the representatives from T.J.

1 Raney, Lasater and Hutton?

2 A I have a vague recollection of Ed Erxleben
3 being at one or more state police commission
4 meetings, but I don't remember the details.

5 Q Do you know what role he had with regard to
6 the financing for the radio project?

7 A No, I don't, other than I know that he was
8 a long time staff person over at Department of
9 Finance and Administration and was something of an
10 expert, I think, on finances. He was someone that
11 was often turned to, I think, in those types of
12 things.

13 Q Do you recall the folks from Lasater &
14 Company, E.F. Hutton and T.J. Raney & Sons being at
15 that meeting?

16 A I recognize, I guess, three of the names,
17 but I don't specifically remember them being there.

18 Q Which names do you recognize?

19 A Mr. Drake, Mr. Woodyard, I think I know who
20 that is, that name looks familiar, and Mr. Young.

21 Q And Mr. Drake was the person you referred
22 to earlier that you thought worked for Lasater &

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1 Company?

2 A Apparently he did. I know he worked for
3 one of the companies, one of those three. I'm not
4 sure if I knew he worked for Lasater & Company or
5 not.

6 Q And Bill Woodyard?

7 A He was an attorney, but I don't know who
8 with. I just -- if he's who I'm thinking of.

9 Q Paul Young you identified earlier as
10 someone you thought was with T.J. Raney?

11 A Yeah, I knew there was a guy there named
12 Paul that was involved, yes.

13 Q Turning to what's listed as page 4, but
14 it's Bates 27585, there's a notation with regards to
15 the appointment of certain members of the committee
16 to review and evaluate proposals to make preparations
17 for the firms they select to make a formal
18 presentation to the committee. Do you see that?

19 A Yes.

20 Q It has a number of names. Were you
21 consulted at all with regard to the appointment of
22 the members of the committee?

1 A I don't believe I was.

2 Q Are you familiar with Randall Miller,
3 Attorney General's office?

4 A Yes, yes.

5 Q Was there generally someone from the
6 Attorney General's office who attended these
7 meetings?

8 A Yes, they had a designated liaison just as
9 the governor's office did. And Randall Miller, he
10 attended a number of those, so he was, I assume, that
11 person for a period of time.

12 Q Then let's look at page 5, it says "other
13 business." It says "change in committee to review
14 financial proposals for the communications system.
15 Commissioner Simpson announced that a change had been
16 made in the committee. Major Tyler was added to the
17 committee. Also instead of only two members of the
18 commission serving on the committee, the entire
19 commission will serve."

20 Do you recall that happening, there being a
21 change between the initial appointment of the
22 committee to review the proposals and a subsequent

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1 expansion of that committee?

2 A No, I don't remember.

3 Q And then there's a listing for executive
4 committee further down. It reads "it was suggested
5 that an executive committee be appointed to handle
6 day to day matters relating to the communications
7 system in the interim between commission meetings.
8 And then it says "Commissioner Simpson appointed the
9 following committee: Colonel T. L. Goodwin, Jim
10 Tyler, Mr. David Moseley."

11 Do you recall that committee being
12 selected?

13 A No.

14 Q Did you have any role in requesting
15 proposals from different underwrite firms for the
16 financing of the police radio project?

17 A I don't think so. I am assuming that was
18 done by the state police, I guess. I don't
19 remember --

20 Q That's how that worked?

21 A -- participating in any way in that.

22 Q Do you recall when you first received

1 copies of proposals that were submitted by the
2 underwriters?

3 A No, I don't. I know that we received some
4 things or I seem to recall receiving some things at
5 that commission meeting when they made their
6 presentation. Whether we got something prior to
7 that -- and again, I'm only speaking to whether it
8 came to me, keeping in mind that during that time,
9 different people were handling different aspects of
10 the public safety stuff, so I can't speculate as to
11 whether it would have gone to someone else in the
12 office.

13 But I don't remember receiving anything
14 prior to that, that meeting.

15 Q So you don't know if other people received
16 proposals prior to the meeting where the
17 presentations were made?

18 A No.

19 Q And I believe you already identified the
20 other people who were working or who would have been
21 working on this issue?

22 A It would have been -- Bobby Roberts had

1 been the liaison for a period of time. He left in
2 late '84, but he would always come back and work the
3 legislative sessions. So I -- while I don't recall
4 this specific session, I would imagine that he was
5 back on staff temporarily during the legislative
6 session.

7 Other things had been -- other aspects of
8 his previous job had been handled by different
9 people. Betsey was handling some things, Kay Goss
10 was handling some things, David Criner I believe, on
11 staff was handling some things, and there may have
12 been some other people as well. So --

13 Q How do you spell Goss?

14 A K-a-y, G-o-s-s.

15 Q So you don't recall whether when you went
16 into that meeting where proposals were made, whether
17 you had already seen the figures or were familiar
18 with the proposals that were made?

19 A No, I don't recall.

20 Q Or whether you had seen any preliminary
21 proposals before the final proposals?

22 A I don't remember.

1 Q If I already asked this, let me know and I
2 don't want to be repetitive. Did you review any of
3 the proposals that were submitted by the underwriting
4 teams?

5 A I'm sure I looked at -- I'm sure I looked
6 at some of that stuff that they submitted at some
7 point. I don't remember specifically sitting down
8 and going through the proposals.

9 Q Actually, I'm going to pick up the pile I
10 just put down. I'm going to quickly show you some
11 documents. The first one is Bates DKS 027617
12 through DKS 027648 and I'll identify it for the
13 record. It's on Stephens, Inc. letterhead, April 19,
14 1985 addressed to Mr. David Moseley, fiscal officer,
15 Arkansas state police and signed by Gene Wilburn,
16 vice president, Capital Markets Group -- the first
17 two pages. And then there's an attachment with a
18 number of different attachments which appears to be
19 the basic proposal to do the underwriting for state
20 police radio.

21 Have you seen this document before?

22 A I don't remember seeing it.

1 Q With regard to any proposals that you
2 received that had been made by the different
3 underwriters trying to get business on the state
4 police radio system, did you provide those proposals
5 to anyone else in the governor's office?

6 A Anything that would have come to me at that
7 point I would have probably referred on to Betsey
8 Wright, because that was just the normal process for
9 forwarding information. And especially if it was at
10 a time and if it was something that I wasn't sure
11 exactly who on staff was handling that, be it this or
12 anything else, I would have sent it to Betsey so she
13 could have gotten it to the appropriate person.

14 Q Do you recall having specific conversations
15 with her with regard to the state police radio
16 underwriting?

17 A No, I don't.

18 Q Any conversations about the different
19 underwriting firms making proposals to the
20 underwriting?

21 A I don't remember any conversations.

22 Q Do you recall whether she did any work on

1 it or took an active interest in it?

2 A I don't know. My recollection is that at
3 the point that I started seeing this stuff, it was
4 very foreign to me because, like I say, I did not
5 understand this process. And I guess from that I
6 assumed that if someone on staff was dealing with it,
7 it was someone other than me, because at that point I
8 didn't really know what I was seeing.

9 Q So you don't know whether someone else was
10 working on it?

11 A Again, Bobby Roberts had worked on that
12 type of thing in the past. And I'm only assuming
13 that during that session from February through April,
14 he was back on staff, but I do not know that he
15 was -- had any role in it whatsoever. I just don't
16 know.

17 Q It could have been somebody else?

18 A Oh, very easily.

19 Q So as far as your recollection is, if you'd
20 gotten materials with regard to this subject, you
21 would have passed it on to Ms. Wright and had her
22 deal with it as she saw fit?

1 A Right.

2 Q Okay, thank you. Would you have provided
3 these materials to anybody else, any proposals to
4 anybody else other than Ms. Wright?

5 A I don't think so, unless there had been
6 someone specifically -- unless I had been aware of
7 someone that was specifically handling that matter.
8 And I was not, other than myself, and I knew how
9 vague I was on it.

10 Q So you weren't distributing it yourself?

11 A No.

12 Q Did you perform any kind of analysis of any
13 proposals that you looked at?

14 A I don't think I did. It's possible that I
15 did some sort of summary of the various proposals,
16 but I don't have any recall at all of preparing any
17 kind of document like that.

18 Q Did you make any recommendations with
19 regard to what firm you thought should get the
20 business?

21 A No.

22 Q Or with regard to which proposal was the

1 best one or the worst one?

2 A I feel confident that I didn't. I don't
3 think I would have been -- I wouldn't have known.

4 Q I would like to show you a document Bates
5 stamped 277874. It's minutes of a meeting of the
6 financial screening committee for communications
7 system, April 24, 1985. And it has members
8 attending, a list, and then discussion about a letter
9 being mailed on April 8 to financial institutions
10 that expressed an interest in financing the proposed
11 communications system. "Financing proposals were
12 received until 9:00 a.m. on April 22, 1985. Eight
13 proposals were received."

14 And then it lists a number of firms, the
15 first group, which reads "Lasater & Company, T.J.
16 Raney & Sons and E.F. Hutton & Company made a joint
17 proposal." Then it lists First Capital Resources,
18 Stephens, Incorporated, Powell and Satterfield, Dean
19 Witter Reynolds, Equity Resources, Motorola and then
20 Shearson Lehman Brothers.

21 Do you recall whether or not you attended
22 the April 24 meeting?

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1 A I don't think I did, but I don't recall. I
2 do not recall attending this meeting.

3 Q Does this refresh your recollection as to
4 whether you attended any of the meetings of the
5 financial screening committee for the communications
6 system?

7 A No. I truly don't think that I did, but I
8 can't be positive.

9 Q Thank you. Did you have any discussions
10 with anyone at the state police commission with
11 regard to the selection of the underwriters for this
12 deal?

13 A As far as any of the commissioners? I
14 don't recall. I mean, I would periodically talk to
15 different commissioners about one thing or another,
16 but I don't specifically recall. It's possible.

17 Q Do you recall whether you had any
18 discussions with Commissioner Mitchum about it,
19 Johnny Mitchum?

20 A No.

21 Q Did you have any discussions with, I
22 believe it's Billy Simpson?

1 A I would have been more likely to talk to
2 Billy Simpson because I believe he was chairman at
3 that time, and I think he was a more frequent caller
4 to the office. But as far as specifically
5 remembering that, I don't.

6 Q Did you have a main interest in following
7 this process with regard to the financing for the
8 system?

9 A No. My primary interest was in the
10 corrections area.

11 Q But you were asked to follow the process
12 that involved the different financing firms making
13 proposals to the underwriting; is that right?

14 A As to follow it? I'm not sure I
15 understand.

16 Q You attended the meetings where it was
17 discussed?

18 A I did attend the meetings, and I would
19 assume I reported back on what happened at the
20 meetings.

21 Q Did anyone in the governor's office express
22 or direct you to pay attention to certain aspects of

1 the underwriting process or the bid process?

2 A Not that I recall. I don't remember any
3 specific instructions along those lines.

4 Q Was this a matter that was of keen interest
5 to the governor, do you remember?

6 A I have no idea.

7 Q Did you have any discussions with Tommy
8 Goodwin with regard to the selection of the
9 underwriters for the financing?

10 A I don't have any independent recall of
11 that, but apparently from the letter the reporter
12 sent me, he's saying that I wrote a memo. So if I
13 did, I'm sure it would have not been at all uncommon
14 for me -- I talked to Tommy Goodwin with some
15 frequency.

16 Q I've got a document here Bates stamped DKS
17 027162. It's a one-page document. Let me know when
18 you've had a chance to review it. Take your time.

19 (Witness reviewed the document.)

20 A Okay.

21 Q I'll try to identify it best I can for the
22 record. It appears to be a memorandum of office of

1 the governor memorandum sheet with a state seal in
2 the upper left-hand corner. It reads "to," and then
3 handwriting reads "Governor Clinton/Betsey Wright."
4 The date is 5-1-85 from, it looks like Mike Gaines.
5 "Subject: ASP Communications K," and I think is a
6 symbol for contract.

7 And then there's some other handwritten
8 notations which appear to the right of the from and
9 subject portion, underneath the date portion and it
10 looks like a thicker pen or at least a wider ink
11 line.

12 Then underneath the masthead there's a note
13 again in handwritten script that appears after that,
14 which the other thick handwriting I think runs into.
15 Then I believe there's an additional amount of
16 handwriting which appears to be different handwriting
17 which appears on the bottom.

18 My first question is, have you seen this
19 document before?

20 A I'm sure I have because it certainly looks
21 like my handwriting. It certainly appears to be a
22 memo that I wrote, yes.

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1 Q And for the record, could you identify
2 which portion of the handwriting belongs to you?

3 A Okay. The addressing of it, "the Governor
4 Clinton/Betsey Wright, 5-1-85, Mike Gaines, ASP
5 Communications K," is all my handwriting, as is "the
6 state police commission is meeting Friday to review
7 proposals for financing the communications system.
8 The following are Tommy Goodwin's observations of
9 where things stand. Billy Simpson appears to have
10 switched his support from another vendor to Dan
11 Lasater. Johnny Mitchum solidly behind Lasater.
12 Tennyson, Lasater. Mashburn, probably Lasater since
13 McElroy Bank did not submit proposal. Gene Raff
14 probably Lasater. Rockefeller, question mark."
15 That's the extent of what I wrote on there, from best
16 I can tell.

17 Q And with regard to the portion you just
18 read -- which appears to be a reporting of where the
19 different commissioners stood on who they favored to
20 do the underwriting for the police radio contract.
21 Would you say that's a fair characterization of the
22 note?

1 A Yes, that's what it appears to be. It
2 appears that I was contacted by Tommy Goodwin, and he
3 indicated that his observations were that various
4 commissioners were in these various modes as far as
5 the contracts go, or the contract goes.

6 Q Do you recall whether he contacted you or
7 if you contacted him?

8 A No.

9 Q Would this have been part of your job to
10 find out where each commissioner stood with regard to
11 the financing proposals?

12 A No.

13 Q Do you recall whether this was something
14 that was requested by the governor?

15 A No. My assumption is that it was a call
16 that I received from Tommy Goodwin.

17 Q And that you were reporting on it to the
18 governor and Betsey Wright?

19 A Right.

20 Q Do you recall why Mr. Goodwin would have
21 been calling you to report on this?

22 A No, unless -- just conveying information or

1 observations he was making. Again, I mean I can't
2 answer for him, but if he had spoken to the
3 individual members and had a sense of how they were
4 leaning on this matter, he may have felt that it
5 needed to be conveyed to the governor's office and
6 called and gave me a rundown of it.

7 Q Before receiving the call from Mr. Goodwin,
8 were you aware of any interest that the governor or
9 Ms. Wright had expressed with regard to which
10 underwriting company receive the underwriting
11 contract?

12 A I don't think so.

13 Q Does it surprise you that Colonel Goodwin
14 would call you with information with regard to which
15 underwriting firm is being favored by different
16 commissioners? Is that something that would normally
17 be of interest to the governor's office?

18 A I would probably not be surprised, because
19 the agency heads were -- they were pretty -- it was
20 not at all uncommon for them to call the governor's
21 office with any number of things, you know, just
22 information that might be of interest just to make

1 sure that the governor's office was aware of what was
2 going on in their shop.

3 Q And under -- after the Billy Simpson
4 notation "appears to have switched his support from
5 other vendor to Dan Lasater," do you know why that's
6 identifying Dan Lasater as an individual? Do you
7 have any recollection of why you did that?

8 A No, unless I was just -- I assume that what
9 I was doing was writing down what Colonel Goodwin was
10 telling me. And I did it, I'm sure, in the same
11 format that it was given to me by him.

12 Q Did he tell you who Billy Simpson had been
13 in favor of before he switched his support from
14 another vendor to Dan Lasater?

15 A I don't know if he did or not.

16 Q Did he give a reason why Mr. Simpson
17 switched his support?

18 A I don't know that, either. I would say
19 that judging from the content of the memo, I think if
20 he had told me who the other firm had been, I would
21 have written it down, since I did make reference
22 under Mashburn that McElroy Bank, I did make

1 reference to it. So I think I would have gone ahead
2 and indicated who he had switched from if he had told
3 me that.

4 Q Does this list represent all the members of
5 the commission who were voting on the financing for
6 the communications system?

7 A I believe it does.

8 Q Had you presented any other -- do you
9 recall any other times you presented memos or
10 prepared memos for the governor or Betsey Wright with
11 regard to the status of the proposals for the
12 underwriting?

13 A I don't recall doing so, but I didn't
14 remember doing this either.

15 Q Have you seen this document with all the
16 different handwritten notations that appear on it?

17 A I don't recall seeing it with the notations
18 on it. It's possible, but I do not recall it.

19 Q Do you recognize the handwriting which
20 begins on the upper right-hand side with the thick
21 lettering, first one reads "I, Lasater should be told
22 bid must be price"?

1 A It looks like the governor's handwriting.

2 Q And for the record the "told" has an
3 underline on it that continues for a few more lines;
4 is that right?

5 A Right.

6 Q How about the writing on the bottom of the
7 page, which reads "gov., we have real problem"?

8 MR. PORTNOY: Actually, could you try and
9 read the rest of that?

10 THE WITNESS: I'm not sure -- I can't. Do
11 you want me to try to figure out what it says?

12 BY MR. O'CALLAGHAN:

13 Q Why don't we look at the writing on the
14 bottom of the page. It's more of a logical
15 following. Do you recognize the handwriting on the
16 bottom of the page, which begins -- it says "gov., we
17 have real problem here since 'street talk' is that
18 Lasater put in unreasonably low bid knowing he can
19 raise it once he gets it." Then it says "I hope ASP
20 had expert review everything. Also how does this
21 jibe with," and then I think there's notations up the
22 side which we can't read.

1 A This looks -- and I'm certainly not certain
2 of that, but it looks to be Betsey Wright's
3 handwriting.

4 Q Were you ever made aware by Ms. Wright or
5 anyone, of the sentiment expressed in that note with
6 regard to street talk that Lasater put in
7 unreasonably low bids knowing he could raise it
8 later?

9 A I don't recall it. The only thing that I
10 do note is that it has a circle around my name with
11 an arrow going back, which a lot of times would -- I
12 mean, generally would mean send back to our office.
13 When it came back, there's a very good likelihood
14 that it would come back and be filed. I can't say
15 that I didn't see it if it came back, but I do not
16 recall seeing it.

17 Q And that appears to be in the same
18 thickness pen that the handwriting on the bottom of
19 the page appears; is that right?

20 A Right, yes.

21 Q There's a check mark by Governor Clinton's
22 name?

- 1 A Yes.
- 2 Q Is that how he marked when he received a
3 document?
- 4 A Yes.
- 5 Q Then we'll turn our attention to the
6 writing on the top right-hand portion of the page,
7 which I believe we read number 1 circled, "Lasater
8 should be told bid must be price." Were you ever
9 aware that the governor expressed a sentiment that
10 Lasater should be told the bid must be price?
- 11 A I don't recall that, no.
- 12 Q Then the next part is a little more
13 difficult to read.
- 14 A Yes, it is.
- 15 Q Number 2 circled. Can you read what that
16 reads there?
- 17 A No. I'm trying. Let's see. "When info
18 be," and I'm not at the beginning of course. It
19 looks like "when info be" --
- 20 Q I think the first part is "Knox"?
- 21 MR. PORTNOY: It looks like "Knox's letter
22 irrelevant unless info he" something.
-

- 1 THE WITNESS: "Develops."
- 2 BY MR. O'CALLAGHAN:
- 3 Q Something. "This equipment for cheaper
4 equipment. But Goodwin should brief him on what
5 he" --
- 6 MR. PORTNOY: "Wants to do," or something?
- 7 THE WITNESS: Yeah, that could be.
- 8 BY MR. O'CALLAGHAN:
- 9 Q It looks like there's more letters,
10 though.
- 11 A Yes, it does. Would? It's not a "D."
- 12 Q Do you recall whether you were aware of any
13 discussions that the governor had with regard to
14 information about equipment for the police radio
15 system?
- 16 A No.
- 17 Q So as far as your recollection is, you
18 don't recall seeing this document before, other than
19 stating the fact that you wrote a portion of it?
- 20 A Yeah. I obviously wrote it. I don't have
21 any independent recall of doing it, but I'm sure I
22 did.

1 Q And you don't recall seeing a note from the
2 governor saying Lasater should be told bid must be
3 price?

4 A No.

5 Q Do you have any idea what that means?

6 A No.

7 Q Just so we thoroughly go through the
8 document, we've already read the Billy Simpson
9 portion. Then there's a notation, "Johnny Mitchum,
10 solidly behind Lasater." Do you recall that being
11 the case?

12 A No. Again, I think this is just what Tommy
13 Goodwin was relating to me as his opinion or
14 observations, and no, I don't have any recall.

15 Q You don't recall?

16 A No.

17 Q Did you have any discussions with any of
18 the commissioners with regard to who they were
19 supporting for the underwriting contract for the
20 police radio system?

21 A I don't remember talking to any. I would
22 occasionally have conversations with Billy Simpson.

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1 I don't even remember who Tennyson is, or Mashburn.
2 I don't think I ever talked to either one of them
3 outside of just exchanging pleasantries in a
4 meeting. Gene Raff, I doubt that I had any
5 conversations with him, and Johnny Mitchum, I don't
6 recall any. It's possible, it's possible that I
7 could have had a conversation with him about
8 something, but I certainly don't remember talking to
9 either one of them about the contract.

10 Q With regard to the note which you believe
11 is Ms. Wright's handwriting, which says "gov., we
12 have real problem here," do you recall her expressing
13 to you that there was a problem with the bidding
14 process or Mr. Lasater bidding too low?

15 A I don't remember her telling me that.

16 Q Do you remember her telling the governor
17 that?

18 A No.

19 Q Do you know why that would be a problem for
20 the governor with regard to Mr. Lasater bidding low?

21 A No. No, I do not.

22 Q Have you ever heard that?

1 A No.

2 MR. PORTNOY: I think the record should
3 reflect that the notes by Ms. Wright don't
4 necessarily indicate that Mr. Lasater's actions would
5 be a problem for the governor. They could also be a
6 problem for the state, the state police commission or
7 for anyone else.

8 MR. O'CALLAGHAN: That's what the question
9 was asking, whether it was a problem for the
10 governor. As we've seen through this process, people
11 interpret things entirely differently.

12 BY MR. O'CALLAGHAN:

13 Q What's your interpretation of that note?

14 A Well, I really don't have one. I'm not --
15 I'm not familiar enough with the process to really --
16 I don't know what it means. I mean, I know they were
17 bidding. I assume they were looking for a low bid.
18 I don't know.

19 Q With regard to communicating to the
20 governor and Ms. Wright with regard to where the
21 different commissioners stood before the meeting
22 where they were going to review the proposals for the

1 financing, is that a typical thing for you to give
2 them heads-up on where the different commissioners
3 stood on different voting issues?

4 A It was typical any time an agency had
5 particularly contacted us with information to pass it
6 on, and then it was up to Ms. Wright to determine
7 whether it needed to go further or not. But anything
8 that was reported to me by Colonel Goodwin, I'm sure
9 I would have written up a quick memo, as you can see
10 it's handwritten. We kept a pad of these by our desk
11 and we were -- it would have been routine to report
12 anything from any agency director.

13 Q How often were those returned to you with
14 comments?

15 A I really don't know. Like I say, a lot of
16 times they would come back down to our office for
17 filing. Occasionally one would come back with some
18 instructions, you know, on something to do. But as
19 far as what percentage of the memos that went up,
20 came back, I do not know.

21 Q With regard to the governor's comments that
22 appear, would those have been directed at you or

1 somebody else?

2 A I don't believe they were directed at me.

3 Q Why do you believe that?

4 A Because I don't recognize any of this. And
5 it says something about Lasater needs to be told,
6 something I've never to my knowledge spoken to
7 Mr. Lasater about anything.

8 Q So this memo typically would have first
9 been sent to Ms. Wright?

10 A Yes.

11 Q And then gone to the governor?

12 A Right.

13 Q Would he have sent it back to Ms. Wright?

14 A I have no idea.

15 Q With regard to how the comment here,
16 "Lasater should be told bid must be price," and then
17 there's a comment that Lasater put in unreasonably
18 low bid by Ms. Wright, apparently. Would that
19 indicate to you that this document was probably sent
20 back to Ms. Wright, responding to her comments?

21 A I don't know.

22 Q Thank you very much. Were you aware of any

1 concerns that were expressed by the members of the
2 commission or anybody else with regard to legal
3 problems that E.F. Hutton was experiencing at the
4 time?

5 A I don't recall anything along those lines.

6 Q I would like to show you another document,
7 DKSJN 027364 through 2747 -- 27371. The first page,
8 "state police communications bid analysis." It's
9 got a handwritten notation on the top right portion,
10 which says "state police."

11 I would have you take a quick look at the
12 document and I'll ask you some questions. It appears
13 to be three distinct documents, which I think went
14 together. I'll explain each page. First page,
15 "attached are the analysis sheets used by the state
16 police commission to write up the decision to award
17 the financing to E.F. Hutton, Raney and Lasater." It
18 gives a synopsis of the numbers included later on,
19 the figures included in the attachment.

20 And then the second page, it looks like a
21 computer printout dated 10 May '85, state police
22 communication bid analysis, has a present value study

1 which lists five different bids, five different
2 costs. It says "other considerations, timing of
3 payments, size of bond issue," and then "best bid is
4 the best concept." And then the remainder of the
5 document, again a spreadsheet for state police
6 proposal analysis. First Capital Resources
7 Corporation, and there's a number of figures which
8 deal with bond payments and revenue and then that's
9 three pages long. Then there's an additional
10 analysis for Raney, Hutton, Lasater of a similar
11 nature.

12 Have you seen any of these documents?

13 A I don't recall seeing any of these. None
14 of them look familiar.

15 Q Do you recognize the handwriting in the top
16 right portion?

17 A That was the first thing I looked at. It's
18 not mine but I don't recognize whose it is.

19 Q Did you review the authorizing legislation
20 after it was enacted?

21 A I doubt that I did. Now, I may have looked
22 at it, but as far as -- I mean, I don't recall

1 reading it. I could have. After the session we
2 would get copies of all the legislation that
3 pertained to anything that we had any dealings with,
4 so I'm sure that -- I'm sure that I had it, but
5 whether I actually reviewed it, I don't know.

6 Q Were you aware of any controversy that was
7 involved with the timing of the payments proposed by
8 Lasater Hutton Raney versus timing of payments
9 proposed by First Capital?

10 A I don't have any independent recall of
11 that, but again from the reporter's letter,
12 apparently I had done a memo conveying concerns that
13 one of the other vendors had expressed about that
14 matter.

15 Q Maybe we'll be able to refresh your
16 recollection with some of the documents that have
17 been provided.

18 As you can see, the pile of documents I
19 started with has been reduced considerably.

20 A That's good.

21 MR. PORTNOY: I think we can get a
22 consensus on that.

1 BY MR. O'CALLAGHAN:

2 Q I would like to show you a document which
3 bears a Bates stamp DKSJN 018184. Let me know when
4 you've had a chance to review it. If you don't mind
5 I'll describe it while you're looking at it.

6 A Okay, sure.

7 Q It's a memorandum to Betsey Wright from
8 Mike Gaines dated May 15, 1985. The subject is
9 Arkansas state police communications system. Let me
10 know when you've had a chance to review it.

11 A All right, sure.

12 (Witness reviewed the document.)

13 Q Have you seen this document before?

14 A I don't have any recall of it. It does --
15 I mean it has my name on it, but normally I initial
16 my memos, but I don't doubt that it was typed in our
17 office. I notice the person indicated as typing it
18 is my secretary. That's my secretary's initials.

19 Q The JE at the bottom left-hand corner?

20 A Right, yes.

21 Q It's a pretty short document. I'm going to
22 read the text in and I'll ask you some questions.

1 A Okay.

2 Q It reads "the financing K," which I believe
3 refers -- did I read the date and subject yet? I
4 did. The text reads "the financing K," which I
5 believe is contract, "will be discussed by the
6 communications subcommittee tomorrow and by
7 legislative council on Friday. Capital Resources
8 Group, which did not get the ASP commission's nod,
9 intend to contest the award to Hutton Lasater Raney
10 on the following points: 1, Capital offered a fixed
11 rate rather than a floating rate; and 2, Capital's
12 proposal was based on monthly payments by the state
13 to repay the debt while HLR based their proposal on
14 payments every six months. Capital points out that
15 the legislation (written by HLR) requires monthly
16 payments. (Act 817 attached. See highlights and
17 page 5).

18 "A proposal based on six-month payments
19 can be lower because it allows the state to earn
20 interest on the pledged revenues during that
21 six-month period. Capital argues that this is not
22 allowed under the law as written. I have discussed

1 this with Sam and he is looking into it." Then it
2 says "MG: Jne."

3 Do you recall writing this memo?

4 A No, I don't.

5 Q Do you recall reporting generally to
6 Ms. Wright with regard to the discussion of the
7 financing contract for the police radio system?

8 A No. Other than just that I -- as I said
9 previously, I would have communicated anything of any
10 significance that came across my desk, that would be
11 the normal place where anything would have been
12 reported by any staff member.

13 Q Under the portion which discusses the
14 points raised by Capital Resources, first one reads
15 "Capital offered a fixed rate rather than a floating
16 rate." Are you familiar with the difference between
17 a fixed rate and floating rate?

18 A No.

19 Q So do you know how you would have received
20 this information?

21 A I don't. I'm assuming that it was either
22 from a phone call or -- I assume a phone call, given

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1 the fact that there is no supporting -- if it had
2 been a letter, I think I would have just said see
3 attached letter. My assumption would have to be that
4 it was from a phone call, and I was relaying what
5 they told me on the phone, because clearly a good
6 portion of this stuff I did not then, I don't think,
7 and I know I don't now understand what it means.

8 Q Do you know why this would have been of
9 interest to Betsey Wright?

10 A No, other than it was -- any matter that
11 was going to be coming up before legislative counsel,
12 I know that we would have wanted to report anything
13 like that that we were aware of in our areas.

14 Q So again, does this help refresh your
15 recollection as to whether she expressed an interest
16 in which underwriting group got the underwriting
17 contract for the Arkansas state police communications
18 system?

19 A No.

20 Q The last comment is "I have discussed this
21 with Sam and he is looking into it." Who does that
22 refer to?

1 A I'm assuming it means Sam Bratton. I don't
2 know for sure, but since Sam was legal counsel, and
3 he covered, as I recall, he attended all of the
4 legislative council meetings. He was the liaison
5 that handled those, and so I would have to assume
6 that knowing that that was the case, I would assume
7 by telephone that I called Sam and said "here is
8 something that's coming up."

9 Q Do you recall having discussions with
10 Mr. Bratton with regard to the act that authorized
11 the underwriting of the communications system?

12 A No.

13 Q Just more specifically, do you recall
14 talking to him about the requirements for the payment
15 schedules involved with underwriting or financing the
16 communications system?

17 A No, I don't.

18 Q Does this memo indicate that you did?

19 A All it says is that I discussed the fact
20 that Capital Resources people were going to lodge an
21 objection, it looked like, before a committee of the
22 legislative council on Friday, I assume of that week,

1 whenever that was.

2 Q Was there anyone in the governor's office
3 who was tasked with overseeing the passage of either
4 the underwriting contract or the enabling
5 legislation?

6 A I don't know.

7 Q Would that typically have been something
8 that Sam Bratton would be in charge of or somebody
9 else?

10 A That I don't know, either.

11 Q Do you recall the dispute that was involved
12 that was the subject of this memo?

13 A No, I don't.

14 Q You said earlier that you don't have any
15 reason to question whether this was a memo that you
16 prepared, other than the fact it wasn't initialed?

17 A It doesn't look like one of my memos, but
18 the fact that Janice Edwards's initials are on here
19 makes me tend to think that it is probably one that I
20 had -- gosh, dictated? I don't think we did
21 dictation. You know, it's not initialed by me, it's
22 not on our normal memo forms that we usually used,

1 but it does have Janice Edwards's initials on it.

2 Q How often did you prepare typed memos?

3 A During a portion of the time it wasn't
4 uncommon, but I did them myself because I had a
5 typewriter in my office, and I would type them
6 myself. It was fairly uncommon, I would think, to
7 have someone else -- to have the secretary type the
8 memo.

9 Q Were there any specific types of memos that
10 you recall that you would have her type?

11 A No.

12 Q Like memos that were important, unimportant
13 or --

14 A No, unless it was something where she had
15 taken the information and had typed a draft for me to
16 look at and conveyed the information to me at the
17 same time, saying here is something you can send up
18 if you want to, for me to review and make any changes
19 to it, but I have no idea if that's what happened
20 here.

21 Q So you don't know if she took the
22 information that's contained in the memo and then you

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1 later reviewed it?

2 A I have no idea.

3 Q Thank you. Did you attend any of the
4 legislative communications study committee meetings
5 with regard to this?

6 A I don't remember attending any.

7 Q Did there come a time when the state police
8 commissioner approved the contract with Lasater,
9 Hutton and T.J. Raney?

10 A Yes.

11 Q And how did you become aware of that?

12 A I probably got a call from Colonel
13 Goodwin. I don't remember that, but that would be
14 the normal way that I would have heard about anything
15 that was going on over at state police.

16 Q After you heard about that they had
17 received the contract, did you relate that
18 information to anyone else at the governor's office?

19 A I don't know. It would have been normal
20 practice to do a memo and send it upstairs.

21 Q Would that have been a written memo or a
22 handwritten memo?

1 A Handwritten, probably.

2 Q Excuse me, handwritten memo or typed memo?

3 A Handwritten I would assume.

4 Q Who would that have gone to?

5 A As with most of my memos, it would have
6 been addressed "Governor Clinton/Betsey Wright."

7 Q Do you recall writing a memo like that?

8 A No.

9 Q After the state police commission approved
10 the underwriting agreement between state police
11 commission and Hutton Raney Lasater, was that
12 contract then put before the legislature for their
13 advice or counsel as to whether they approved it?

14 A I don't know if it required that or not. I
15 don't know if it required advice and consent or
16 whatever. I don't know what the process was at that
17 point.

18 Q Do you recall whether the contracts or
19 proposal met any resistance in the legislature?

20 A Not that I recall. I just don't remember.
21 I don't know.

22 Q I would like to show you a document which

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1 is the minutes of the meeting of the Arkansas
2 legislative council Friday, May 17, 1987, Bates
3 stamps are DKS N 027211. Through 027222. And you can
4 review the whole document, but I'm going to direct
5 your attention to a very specific portion.

6 A Okay.

7 Q I'll ask if you've seen it. I've
8 highlighted the portion for you which I'm going to
9 refer to. Were you in attendance at the meeting of
10 the Arkansas legislative council on May 17, 1985?

11 A I don't know, but I doubt it.

12 Q On page 27213 there's a title which reads
13 "reports of joint interim committees and
14 communication studies committee -- state police
15 communication network." Do you see that?

16 A Yes.

17 Q And as that continues on, I would like to
18 direct your attention to page 27216. And I
19 highlighted a portion for you there, which is still
20 under the same heading, I believe, "the following
21 roll call vote was then taken on the main motion by
22 Senator Hoffman to give favorable advice to the state

1 police commission recommendation on the financing
2 proposal submitted for the acquisition of the new
3 communications network. The motion failed of
4 adoption (14 for and 12 against) with 16 votes being
5 necessary for passage."

6 Does that refresh your recollection as to
7 whether or not you had knowledge of whether or not
8 there was a failure of passage of adoption of a
9 motion to give favorable advice to state police with
10 regard to the Raney Hutton Lasater underwriting
11 proposal?

12 A No, I don't recall even being aware of
13 that.

14 Q Thank you. Were you aware or are you aware
15 of whether Governor Clinton ever met with any state
16 legislators in relation to the police radio
17 underwriting?

18 A No.

19 Q Or in relation to the contract for the
20 underwriting?

21 A No, I don't know if he did or not.

22 Q Have you ever heard that?

1 A No.

2 Q Did you have any discussions with any of
3 the legislators who voted on the motion to give
4 favorable advice on the contract between the state
5 police and Raney Hutton Lasater?

6 A I don't think so.

7 Q I would like to show you minutes of a board
8 meeting, communications study committee, July 10,
9 1985. Bates stamps DKS N 27240 through 27251. And I
10 would like to direct your attention to the last full
11 paragraph on the first page. My first question is
12 did you attend the July 10, '85 communications study
13 committee?

14 A Not that I recall, and I seriously doubt
15 that I would have.

16 Q That's a meeting of the legislature; is
17 that right?

18 A Communication, that must be a committee of
19 the legislative council, I guess, judging from the
20 Senators and Representatives. I think that's
21 correct.

22 Q Last full paragraph reads "Colonel Goodwin

1 of the state police was recognized. He introduced
 2 Ms. Anne Ritchey of the Mitchell, Williams, Selig,
 3 Jackson & Tucker law firm to explain the role of the
 4 firm regarding the bond contract. Senator Nelson
 5 asked Mr. Erxleben of the state purchasing office if
 6 he had reviewed the contract. He said his office had
 7 worked out some recommended changes with the law
 8 firm. Senator Howe asked if the Mitchell firm
 9 represented the state or the bond company.
 10 Mr. Erxleben said that there were three parties which
 11 had to work together: "The law firm, the bonding
 12 company and the independent trustee. Senator Howe
 13 said he wanted to be sure there's adversarial
 14 protective concern for the taxpayers. Mr. Erxleben
 15 said it was a well coordinated and reviewed
 16 contract," which I believe is misspelled, it says
 17 "contact." "Any questions refer to the Attorney
 18 General. To the best of their ability or knowledge
 19 the taxpayers were protected. Senator Howe asked
 20 Ms. Ritchey to explain the relationships to the
 21 taxpayer, what responsibilities the law firm had.
 22 "Ms. Ritchey said they had the

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1 responsibility to make sure the bonds are validly and
 2 legally issued, to protect the state and the
 3 investors. They are responsible to make sure the
 4 bonds comply with federal tax laws so they are tax
 5 exempt for investors. This is a strong public
 6 purpose type of financing."

7 Were you aware of any relationship that
 8 existed with the Mitchell, Williams, Selig law firm
 9 and the underwriters for the police bond
 10 underwriting?

11 A No, except that I know in one of those
 12 commission meetings, it seems like -- well, the name
 13 John Selig comes up in some of that, so I know there
 14 was some involvement, I guess, somewhere.

15 Q But independent of what I've shown you
 16 today.

17 A No, no.

18 Q Have you ever heard the name Anne Ritchey
 19 before?

20 A The name sounds familiar, but I can't place
 21 who she is.

22 Q Were you aware of any concerns expressed by

1 any of the state legislators with regard to the law
2 firm working on the contract and protection of
3 taxpayers?

4 A No.

5 Q Thank you. I would like to show you a
6 document with Bates stamp DKS N 018200. One-page
7 document. And it's on Arkansas state police
8 letterhead. It's a memorandum dated July 3, 1985.
9 It says "to state police commissioners from Bill
10 Simpson, chairman, re: commission meeting." Then it
11 has a cc on the bottom, it says "state police staff,
12 Mr. Mike Gaines, governor's office, and Mr. Randall
13 Miller, Attorney General's office."

14 Have you seen this document before?

15 A I don't recall seeing it, but it's a
16 standard notice of a commission meeting being
17 scheduled. We routinely received these.

18 Q So this was the form of the notices you
19 would normally receive from the commission?

20 A I believe so, yes.

21 Q Did you receive any other types of memos
22 from them other than notices?

1 A I'm sure we did, but I can't recall what.

2 Q Thank you. During the fall of 1984 through
3 the summer of 1985, to put you specifically at a
4 point in time, how much contact would you say you had
5 with the governor?

6 A That's very hard to say. I really don't
7 know. We were two or three floors separate, my
8 offices were from his. The communication memoranda
9 would go back and forth with some frequency. As far
10 as actually seeing him, I would go weeks without
11 having any actual contact with him, and then I might
12 see him several times in a week, but it would be
13 almost impossible to guess at how many times I saw
14 him during that period of time. I have no idea.

15 Q And your offices, were they located in --

16 A They were in the basement of the capitol,
17 and the governor's office was on the second floor,
18 same building but on the second floor.

19 Q Did you ever spend any time out at the
20 mansion?

21 A I've been there, I've been to functions and
22 such, but --

1 Q Do you know who Dan Lasater is?

2 A I know who he is, yes.

3 Q How do you know who he is?

4 A Just from, I guess, press reports and such.

5 Q Have you ever met him?

6 A Never.

7 Q Have you ever seen him?

8 A I don't think I have. I know I've seen his

9 picture in the paper and I've seen him on television,

10 news reports, but I seriously doubt that I would

11 recognize him if I saw him.

12 Q During the time when you were working as a

13 public safety liaison, did anyone at the state police

14 commission relate to you that they were aware of

15 criminal activity being engaged in by Mr. Lasater?

16 A No.

17 Q Did you ever become aware that during that

18 time period, that members of the commission were

19 aware of criminal activity being engaged in by

20 Mr. Lasater?

21 A No.

22 Q Were you informed of any investigations

1 involving Mr. Lasater?

2 A I knew when he was arrested. I know he was

3 arrested on a drug charge.

4 Q But other than that?

5 A No.

6 Q Nothing prior to that?

7 A No.

8 Q Did that occur after your time as liaison?

9 A He was arrested, you know, I really don't

10 know when that happened. It seems like I was on the

11 governor's staff when that happened, but I really

12 don't know when.

13 Q Do you have any knowledge of the governor's

14 relationship with Mr. Lasater during that time

15 period?

16 A No.

17 Q Do you have any knowledge of the governor's

18 knowledge of Mr. Lasater's relationship with Roger

19 Clinton?

20 A No, I don't.

21 Q Are you aware of any campaign contributions

22 given by anyone at Lasater & Company to either the

1 governor's election campaigns or inaugural
2 committees?

3 A No.

4 Q Have you ever heard about that?

5 A I don't believe I have.

6 Q Did anyone ever offer cash or other type of
7 remuneration to anyone at the governor's office in
8 connection with the state police radio financing?

9 A I'm not aware of that.

10 Q And that's specifically -- more
11 specifically in an effort to win a contract to do the
12 underwriting for the bond offer.

13 A Not that I know of.

14 Q Have you ever heard that?

15 A No.

16 Q During the time when you were at the
17 governor's office, did you conduct any work with
18 regard to the Arkansas Development Finance Authority
19 or the Arkansas Housing Development Agency?

20 A No.

21 MR. O'CALLAGHAN: Off the record.

22 (Discussion off the record.)

1 BY MR. O'CALLAGHAN:

2 Q Back on the record.

3 Mr. Gaines, during your time as chair of
4 the full-time parole board for the state, were you
5 familiar with a parole that was granted for
6 Mr. Lasater?

7 A Not a parole. He applied for a restoration
8 of his firearm rights.

9 Q I mean a pardon is what I meant to say. I
10 misspoke.

11 A Yes.

12 Q Did you have any involvement in that?

13 A Yes.

14 Q How did that come about?

15 A I need to give you a little background, if
16 I can, to explain what this exactly was.

17 Q Please, yes.

18 MR. PORTNOY: Before you do, I'm going to
19 ask that we go off the record and chat with Mike.

20 (Discussion off the record.)

21 MR. PORTNOY: During the break,
22 Mr. O'Callaghan and I have conferred and come to an

1 accommodation regarding the appropriate scope of
2 questioning on the subject that Mr. O'Callaghan has
3 just raised. And I would just note for the record
4 that because Mr. Gaines actually was involved in the
5 process whereby Mr. Lasater received a pardon, that
6 it's the view of the Minority that he is uniquely
7 situated to respond to these questions and we don't
8 view this as an agreement that these questions would
9 be appropriate in other circumstances or for other
10 witnesses. With that, sir.

11 MR. O'CALLAGHAN: Thank you. And just for
12 the record, too, I would like to state that in the
13 event that it becomes apparent that there's another
14 witness that appears before the committee that may
15 have knowledge into these matters, that we're not
16 going to limit ourselves to questioning Mr. Gaines on
17 the topic of the discussion which we're about to
18 engage in regarding the pardon which was granted to
19 Mr. Lasater in, I believe, sometime around November
20 of 1990.

21 BY MR. O'CALLAGHAN:

22 Q Before we went off the record, Mr. Gaines,

1 I believe I asked you if you had any knowledge of a
2 pardon granted for Mr. Lasater. You said you did; is
3 that right?

4 A With an explanation, it was not a pardon
5 but yes, I'm aware of a proclamation that was issued.

6 Q Could you describe to me what your
7 understanding of that proclamation was and what your
8 involvement was and how that proclamation or pardon,
9 however you characterize it, came about?

10 A Yes. In the early to mid-'80s, it
11 became -- let me back up a little bit. Arkansas has
12 a law which states that a person convicted of a
13 crime, it doesn't say state crime, federal crime or
14 anything, just says convicted of a felony, may not
15 possess a firearm unless and until the governor has
16 issued a pardon which specifically authorizes the
17 possession of weapons. When I was even on the
18 governor's staff, we would get a number of people
19 that had convictions either in Texas, California or
20 more commonly federal convictions, coming to us,
21 asking for pardons.

22 Q These are state residents?

1 A State residents.

2 Q Of Arkansas?

3 A Asking for a pardon for, say, a federal
4 offense. We would immediately send them away, saying
5 you need a Presidential pardon, we don't have any
6 authority to grant pardons.

7 What we learned was that the -- apparently
8 the provisions in the federal law provided that
9 Alcohol, Tobacco and Firearms could administratively
10 restore the right to hunt or whatever, to possess a
11 weapon, if the person was in compliance with the
12 jurisdiction's laws that they were residing in.

13 So you had a problem in that we had a law
14 which I think was fairly unique, saying that you
15 could not possess the gun unless the governor said
16 you could. We conferred with Alcohol, Tobacco and
17 Firearms people there in Little Rock and came to an
18 agreement that people that wanted to do that could
19 come, make application to the governor. And the
20 governor, if he so chose, could issue a proclamation
21 saying for the purposes of complying with the
22 provisions to allow you to possess firearms, I am

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1 hereby granting what we -- we called it a conditional
2 pardon.

3 But it was, in fact, not pardoning the
4 person for the crime because the governor didn't have
5 the authority to do that, but it did remove the
6 firearm disability under state law. That allowed
7 them to take that proclamation, go to ATF and fill
8 out the necessary paperwork so they could hunt.

9 So that was the type of proclamation, as I
10 understand it, that Mr. Lasater was requesting at
11 that time, and what we had done was routinely what we
12 would do on the parole board when we reviewed those,
13 we did not do them in the way we would a state
14 conviction, where we would go back and look at the
15 crime and look at the impact on victims and all of
16 those types of things to make a nonbinding
17 recommendation to the governor on whether to pardon
18 the person. We would look to see if they had indeed
19 discharged their sentence; if they had then we would
20 more or less routinely make the recommendation to the
21 governor that he restore that firearm provision.

22 That's what was issued in the case of

1 Mr. Lasater.

2 Q Were there any other requirements other
3 than the full discharge of their sentence?

4 A I don't think so. I think maybe we would
5 check to see if they owed -- I don't know if we would
6 check to see if they had any outstanding fines or
7 restitution or anything, but I think mainly we were
8 interested in seeing a discharge proclamation,
9 federal discharge, from the federal sentence.

10 Q So would you first have to get a federal
11 discharge before you acted on it?

12 A That's my understanding, yes.

13 Q Was that the case with Mr. Lasater's
14 application?

15 A As I recall, it was. I say that. It would
16 have been processed for us by the Arkansas Department
17 of Correction, and they forward them only in the case
18 where they met the criteria.

19 Q Were you aware, was there any contact
20 attempted by the governor's office to move this
21 application along?

22 A No, no.

1 Q Was there anything out of the ordinary
2 about the granting of this proclamation?

3 A No.

4 Q So your office would make a recommendation
5 with regard to whether the proclamation should be
6 made, and that would go to the governor's office; is
7 that right?

8 A Right. We would make a nonbinding
9 recommendation on those cases.

10 Q Okay. And then that would go to the
11 governor's office after that for the governor's
12 signature?

13 A Yes, that's correct.

14 Q So to your knowledge, there was no contact
15 with the governor's office and the parole board with
16 regard to this application?

17 A No, not that I'm aware of.

18 Q Are you aware whether, with respect to your
19 duties as the public safety liaison officer, was
20 there anyone at Lasater & Company that served on the
21 highway safety board, or the highway commission?

22 A I didn't have any dealings with the highway

1 commission. The Arkansas Highway Safety Office was a
2 separate office, and they were not part of the
3 highway department. They are now, but they were not
4 at that time and they did not have an oversight
5 board.

6 Q So your answer to that is, whether there's
7 any Lasater & Company employees on the highway safety
8 board?

9 A No, there was no board.

10 Q Did you have any dealings with the highway
11 commission?

12 A No.

13 Q I'm going to identify a document, it's a
14 one-page document Bates stamped DKS N 019644. It's a
15 document with a number of handwritten notes on it.
16 And I'm going to ask you to look at it and see if you
17 can identify any of the handwriting that appears on
18 it.

19 A Okay.

20 (Witness reviewed the document.)

21 No, I can't.

22 Q Have you ever seen that document before?

1 A No, I don't believe I have, no.

2 Q Thanks. Are you aware whether Governor
3 Clinton had any conversations with Dan Lasater with
4 regard to the state police bond underwriting?

5 A No.

6 Q Have you ever heard that?

7 A No.

8 Q Have you ever heard that there was a --
9 before the -- did you ever hear that there was a
10 discussion between the governor and Mr. Lasater
11 before the bond underwriting contract was given to
12 the Hutton Raney Lasater group that Lasater & Company
13 would be part of the bond underwriting syndicate?

14 A No.

15 MR. O'CALLAGHAN: I have no further
16 questions at this time. Thank you.

17 THE WITNESS: You bet.

18 EXAMINATION

19 BY MR. PORTNOY:

20 Q Good evening, sir.

21 A Hello.

22 Q I have just a few minutes of questions for

1 you, sir. Earlier Mr. O'Callaghan showed you a
2 document which is Bates stamped number DKSX 017800
3 and it's a page of handwritten notes. They appear to
4 be handwritten meeting notes dated March 4, without a
5 year, and they identify several meeting participants,
6 including Paul Young, M. Drake, John Selig, Mahlon,
7 Joe and Mike G.

8 And you indicated, sir, that to the best of
9 your knowledge, you are not the Mike G. who is
10 identified as having attended that meeting?

11 A To the best of my knowledge, I did not
12 attend a meeting with these gentlemen. I have no
13 recall at all of being in a meeting with them.

14 Q And you speculated as to who Mike G. might
15 be. I think you identified one person who turned out
16 to be not Mike G. but actually turned out to be --

17 A Mike Stormes. But obviously is not. And I
18 don't know if it could have been someone else
19 involved in the -- from Mahlon Martin's operation or
20 not, but again, I simply do not remember being in a
21 meeting ever with these gentlemen.

22 Q So you're fairly confident that the Mike

1 G., whoever he is, isn't you?

2 A I am, yes.

3 Q Thank you, sir. You were also asked
4 earlier about a memorandum with the Bates number DKSX
5 027162, dated May 1, 1985 that you wrote to Governor
6 Clinton and Betsey Wright. I would like to give that
7 back to you.

8 A Okay, yes.

9 Q Maybe walk through it with you. First I
10 would like to try and place the time in context. To
11 do so I would like to show you Act 817 of 1985, which
12 is Bates stamped number DKSX 18193 through 199. And
13 I would ask you to turn to the last page and look at
14 the signature. Is that signed by Governor Clinton?

15 A Yes, it is.

16 Q Is it dated, sir?

17 A Yes, April 4, 1985.

18 Q So would it be fair to say that by April 4,
19 1985, Governor Clinton in the conduct of his official
20 duties was aware that there was going to be a
21 financing proposal for the state police
22 communications system?

1 A Yes.

2 Q Also, sir, I would like to direct your
3 attention to the minutes of financial screening
4 committee for communications system at the Arkansas
5 state police dated April 24, 1985. Would it be a
6 fair characterization of this document to say that
7 the committee apparently identified eight
8 underwriters or proposed underwriters who had
9 submitted proposals to finance the state
10 communications system?

11 A Yes, there appear to be eight.

12 MR. O'CALLAGHAN: Are you asking him to
13 read the document or his knowledge?

14 MR. PORTNOY: To read the document, just to
15 confirm what the document says. Confirm what the
16 document says, that as of April 24, 1985, the
17 Arkansas state police commission subcommittee had
18 identified or had received proposals from eight
19 companies, or underwriters.

20 THE WITNESS: Yes, I have no independent
21 recall of how many there were, but this document does
22 reflect that.

1 BY MR. PORTNOY:

2 Q And meetings of this sort that these
3 minutes reflect are public, are they not?

4 A Yes, they are.

5 Q And the minutes of those meetings are
6 public?

7 A Yes.

8 Q So it was public knowledge as of April 24,
9 1985 that Lasater & Company had submitted a proposal
10 in conjunction with T.J. Raney and E.F. Hutton?

11 A It would appear so from the minutes.

12 MR. O'CALLAGHAN: Just so we're clear, Jim,
13 do you know whether all the financial screening
14 committee's meetings were public, whether they had
15 any private meetings or closed meetings?

16 THE WITNESS: Under the Arkansas -- under
17 Arkansas law, as I understand it, no meetings such as
18 this could be closed for any purpose other than
19 personnel matters. You could not have executive
20 sessions of committees or boards of commissions.

21 BY MR. PORTNOY:

22 Q So it would be fair to assume that this

1 would have been an open meeting?

2 A Yes.

3 Q Now, sir, with the understanding that
4 nearly a month earlier Governor Clinton had signed
5 legislation authorizing the state police commission
6 to finance a communications system, and that at least
7 a week earlier the state police commission had
8 identified publicly the applicants for the
9 underwriting contract, I would like to turn back to
10 your memorandum.

11 MR. O'CALLAGHAN: What did you just show
12 him, April 24 or May 3?

13 MR. PORTNOY: April 24.

14 MR. O'CALLAGHAN: Thanks. Before we move
15 on, this might help answer my question. Last full
16 paragraph, take a look, the last full paragraph reads
17 "Mr. Erxleben suggested that this meeting be a
18 closed meeting -- I'll read the sentence before
19 that. It says "the committee will meet again on
20 Friday, May 3, 1986 at 9:00 a.m.," and then it
21 continues "Mr. Erxleben suggested that this meeting
22 be a closed meeting as it will be a working committee

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1 meeting. He will check again with the Attorney
2 General's office to confirm that this can be done
3 legally." The meeting was adjourned at 9:21 a.m.,
4 April 24, 1985.

5 Does that indicate that there might be
6 other reasons to have closed meetings for working
7 meetings?

8 THE WITNESS: Apparently he seemed to think
9 that they could. That would not be my understanding,
10 at least at this point, of what the law provided, but
11 I could be wrong.

12 BY MR. PORTNOY:

13 Q Just to finish the subject as long as we're
14 on it, I would ask you to look at document Bates
15 number DKSX 001396, which are the May 3 minutes of
16 the financial screening committee, and tell me if
17 anything in those minutes suggests to you that the
18 meeting was closed.

19 (Witness reviewed the document.)

20 A The minutes are in the same form as the
21 previous set of minutes I looked at, and there's no
22 indication that they went into closed session, which

1 if I understand it correctly would take a vote, that
2 I assume would be reflected in the minutes, to close
3 the meeting.

4 Q So would it be a fair assumption, sir, that
5 the May 3, 1985 meeting was open?

6 A Just from the minutes, that would be my
7 feeling is that it was an open meeting.

8 Q Now, turning back to your May 1, 1985
9 memorandum, would memorandums of this sort typically
10 go first to Ms. Wright?

11 A Yes.

12 MR. O'CALLAGHAN: Off the record for a
13 second.

14 (Discussion off the record.)

15 MR. PORTNOY: Back on the record. Let the
16 record reflect that Mr. O'Callaghan expressed concern
17 that the record would be confused if I continued my
18 questioning and he were to come back to his questions
19 about the May 3 minutes when I was finished. And I
20 have acceded to his request to ask those questions
21 now and then I will then return to the document that
22 I showed Mr. Gaines.

1 EXAMINATION

2 BY MR. O'CALLAGHAN:

3 Q I appreciate that. Again, looking at the
4 May 3 minutes, previously we looked at April 24
5 minutes where it said they were going to see if they
6 could have a closed meeting. And here it says "the
7 following members of the committee met on May 3, 1985
8 in the boardroom of the state police administrative
9 headquarters at 3 Natural Resources Drive in Little
10 Rock." How big was the boardroom at the state police
11 administrative headquarters?

12 A The boardroom is where they always had
13 commission meetings. It had a conference table that
14 probably would seat, oh, I'm guessing, but I would
15 say 15 people, with seating around the perimeter of
16 the room, probably would hold another 30 comfortably.

17 Q So that's where they generally had
18 meetings?

19 A Yes.

20 Q So that doesn't indicate that this was in a
21 smaller room or that -- in a closed committee room?

22 A No.

1 Q With regard to --

2 MR. O'CALLAGHAN: I just wanted to make
3 sure that wasn't indicative of a closed meeting.
4 Thanks.

5 THE WITNESS: Sure.

6 EXAMINATION

7 BY MR. PORTNOY:

8 Q Sir, if I could recap. Before we discussed
9 the possible opening or closing of the meeting, you
10 looked at a copy of Act 817, and we've agreed that
11 Governor Clinton signed that on April 4; is that
12 correct?

13 A Yes.

14 Q And we looked at the April 24 minutes of
15 the state police commission, and those minutes
16 indicated that at least as of April 24, it was public
17 knowledge that there had been eight proposals
18 received by the board; is that correct?

19 A That's correct.

20 Q Now we're turning to your May 1 memorandum,
21 and I believe you just testified that your memoranda
22 would typically go to Ms. Wright first?

1 A Yes.

2 Q And with respect to the notations at the
3 bottom that you've identified as being made by
4 Ms. Wright, would it be correct to read her first
5 sentence as "Governor, we have a real problem -- we
6 have real problems here since 'street talk' is that
7 Lasater put in unreasonably low bid knowing he can
8 raise it once he gets it"?

9 A That's what it looks like to me, yes.

10 Q And then I would direct your attention to
11 the handwritten portion in the upper right-hand
12 corner, which you've identified as having been
13 written by Governor Clinton, and ask you to look at
14 the portion that he's enumerated 1, which says
15 "Lasater should be told bid must be price."

16 A Yes.

17 Q Would a fair reading of that, sir, be that
18 Mr. Lasater has to be advised that the governor won't
19 tolerate his putting in an unreasonably low bid and
20 then raising the price later?

21 MR. O'CALLAGHAN: You're asking him to make
22 a judgment on whether -- the word "tolerate" is a

1 little subjective.

2 MR. PORTNOY: If the witness prefers to
3 characterize it another way, I would be pleased to
4 hear it.

5 THE WITNESS: It does appear to me to be in
6 reference to the statement that I believe Ms. Wright
7 had made, and I think that would be a fair
8 assessment, but I would note that he's underlined
9 "told," essentially to put stress there that it
10 seems to be a pretty emphatic statement, that the bid
11 must be the price.

12 BY MR. PORTNOY:

13 Q So you would read this as a rejection of
14 Mr. Lasater's rumored attempt to bid low and then
15 charge high?

16 A I would characterize it as him saying that
17 the street talk referred to would not be acceptable
18 as far as low-balling the contract or whatever and
19 then coming in and raising it.

20 MR. O'CALLAGHAN: These are all your
21 impressions of just reading this document, so you
22 don't recall ever reading it before and you have no

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1 idea what the governor was thinking; right?

2 THE WITNESS: I do not. This is strictly
3 speculation based on what I'm looking at here now.

4 MR. O'CALLAGHAN: So we're just speculating
5 what we're all reading here; right?

6 THE WITNESS: Yes.

7 MR. PORTNOY: I'm simply asking the witness
8 to interpret his -- to interpret for us and give us
9 his understanding of a memorandum that he has
10 acknowledged he wrote and --

11 MR. O'CALLAGHAN: He didn't acknowledge he
12 wrote that portion of it.

13 MR. PORTNOY: And the comments made in
14 response to his memorandum.

15 MR. O'CALLAGHAN: But just so we're clear,
16 he also testified that he doesn't remember seeing
17 this and doesn't even know if he saw the writing that
18 appears in the top right and bottom, and it may not
19 even have gone to him, it might have gone right back
20 to the file in the department he worked in; is that
21 right?

22 THE WITNESS: That's correct.

1 MR. O'CALLAGHAN: Thanks.

2 BY MR. PORTNOY:

3 Q With respect to the second sentence of
4 Ms. Wright's comments, could you try to read those
5 for me?

6 A I can try. It looks like -- now, if that
7 was independent of everything else I would not say it
8 looked like an I, but it fits that it would say "I
9 hope ASP had expert review everything."

10 Q How would you interpret that sentence, sir?

11 A Well, she appears to be expressing her hope
12 that the folks at state police had this, I guess all
13 the documents and all the proposals, reviewed by
14 someone with some authority to do so and some
15 expertise to do so.

16 Q Would it be a fair reading of this in your
17 estimation, sir, to say that Ms. Wright is expressing
18 the hope that Mr. Lasater's proposal has been
19 subjected to expert review?

20 A Oh, I think that would be fair, yes.

21 Q And sir, I would ask you --

22 MR. O'CALLAGHAN: Again, Jim, this is all

1 speculation as to what -- you're trying to get into
2 Ms. Wright's mind and what she meant; is that right?

3 MR. PORTNOY: I'm just asking the witness
4 for his interpretation.

5 BY MR. PORTNOY:

6 Q Lastly, sir, the final sentence, I realize
7 there are some markings that appear to go up the side
8 of the page and that are difficult to read, but I
9 would suggest that that says "also how does this jibe
10 with Knox's letter."

11 MR. O'CALLAGHAN: Whoa. How do you get
12 that?

13 MR. PORTNOY: I would derive that
14 interpretation based upon the second enumerated entry
15 in the upper right-hand corner, which begins "Knox's
16 letter."

17 MR. O'CALLAGHAN: If you can read that from
18 that, I'll be amazed, but --

19 THE WITNESS: I'm not going to say I can
20 read it, but it could -- taking the number 2 item up
21 in the right-top corner, that could be what it says.
22 But I certainly can't tell by looking at it.

1 MR. O'CALLAGHAN: Can you even read one
2 letter from what's going up the side or do you see
3 slash marks and little markings?

4 THE WITNESS: I see slash marks.

5 MR. O'CALLAGHAN: I'm not seeing a single
6 letter. I'm not trying to say that's not what it
7 says, but I can't even make out a letter there.

8 BY MR. PORTNOY:

9 Q For the purposes of this discussion I would
10 ask you to assume that my reading is correct. If
11 it's not, then --

12 MR. O'CALLAGHAN: Jim, that's kind of --
13 what value does that do? You're making him
14 completely guess on something that he has no idea
15 what it says, and I don't think that it's fair to ask
16 someone to do that.

17 BY MR. PORTNOY:

18 Q Let me ask you this, then, based upon what
19 is written in the upper right-hand corner. Do you
20 know who Knox might be?

21 A I would assume -- again, this is an
22 assumption, but I'm assuming that it's Senator Knox

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1 Nelson. That's the only Knox I can think of.

2 Q And are you aware whether Senator Nelson
3 had a role in the approval or review of the police
4 radio underwriting?

5 A I do not. I don't know.

6 Q And I believe you indicated earlier, sir,
7 that the circle around your name and the arrow back
8 would typically indicate that the memorandum with the
9 comments was supposed to be returned to you?

10 A Right. That would be the indication that
11 it was sent back to the basement to our suite of
12 offices, yes.

13 Q So although you don't recall receiving this
14 memorandum, would it be reasonable to assume that you
15 sent this memorandum to Ms. Wright, who made
16 comments, she then passed the memorandum on to the
17 governor, who made additional comments, that the
18 memorandum was then somehow conveyed back to you,
19 either directly or through Ms. Wright or somebody
20 else?

21 A Yes, I think that's correct.

22 Q I would point out that the pen or writing

1 implement which was used to circle your name and draw
2 the arrow appears to match the writing implement used
3 by Ms. Wright to make her comments, so a reasonable
4 interpretation might be that the governor gave the
5 memorandum back to Ms. Wright, who then returned it
6 to you?

7 A That's how it appears to me. It does
8 appear that the -- that these match or at least
9 appear to be very similar.

10 MR. O'CALLAGHAN: When you say "you," you
11 mean back to his suite of offices like he testified
12 to; right?

13 MR. PORTNOY: Directed to him, wherever it
14 may have ended up.

15 BY MR. PORTNOY:

16 Q You have no recollection of drafting this
17 memorandum, you testified?

18 A I really don't.

19 Q And you don't recall whether you initiated
20 the conversation with Colonel Goodwin or he initiated
21 the conversation with you?

22 A No.

1 Q I believe you testified that it was more
2 likely that Colonel Goodwin initiated the
3 conversation with you.

4 A Yes.

5 Q Do you recall anybody ever asking you to
6 monitor what underwriter would be selected for the
7 police radio contract?

8 A No.

9 Q You were never assigned to figure out in
10 advance who might be selected?

11 A No.

12 Q Were you ever asked to try and influence
13 that process in any way?

14 A No.

15 Q Did you ever suggest to anyone at the
16 Arkansas state police or the state police commission
17 that they should select a particular underwriter?

18 A No.

19 Q Did you ever suggest to anyone at the
20 Arkansas state police or the state police commission
21 that they should not select a particular underwriter?

22 A No.

1 Q Were you ever asked to do so by anyone
2 associated with Governor Clinton?

3 A No.

4 Q To your knowledge, did anyone else
5 associated with Governor Clinton ever suggest to
6 anyone at the Arkansas state police or state police
7 commission that they should select a particular
8 underwriter?

9 A I am not aware of any situation like that.

10 Q That they should exclude a particular
11 underwriter?

12 A No.

13 Q Are you aware of any attempt by anyone
14 associated with Governor Clinton to influence the
15 selection of underwriters in any way?

16 A No.

17 Q Are you aware of anyone or of any attempt
18 by anyone to improperly influence the selection of an
19 underwriter, irrespective of by whom they were
20 employed?

21 A No.

22 Q Finally, sir, with respect to the

1 proclamation that was issued to permit Mr. Lasater to
2 obtain a hunting license.

3 A Right, to possess a weapon, yes.

4 Q Was that the only legal effect of that
5 proclamation that you're aware of?

6 A Yes.

7 Q And I believe you testified that
8 Mr. Lasater had been convicted of a federal crime, so
9 therefore the governor had no authority to pardon
10 him?

11 A That's correct.

12 Q And you described this as routine?

13 A Yes.

14 Q There was nothing out of the ordinary about
15 the way Mr. Lasater's case was handled?

16 A No.

17 Q No one from the governor's office made any
18 effort to influence your handling of Mr. Lasater's
19 case?

20 A No.

21 Q To the best of your knowledge, did anyone
22 from the governor's office ever contact you about

1 Mr. Lasater's case?

2 A No, they didn't.

3 MR. PORTNOY: Thank you, sir. I have no
4 further questions at this time, thanks.

5 (Whereupon, at 5:07 p.m., the deposition
6 was concluded.)

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MICHAEL J. GAINES

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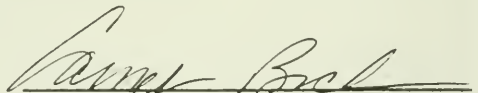
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

**DEPOSITION OF MORRIS PATTERSON
IN RE: S. RES. 120**

FRIDAY, FEBRUARY 16, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of MORRIS PATTERSON, called
for examination pursuant to notice of deposition, at 9:30 a.m. in
Room 534 of the Dirksen Senate Office Building, before JOANNE
LIVERANI, a Notary Public within and for the District of Colum-
bia, when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

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P R O C E E D I N G S

MR. GICALE: Mr. Patterson, do you consent to being sworn over the phone?

MR. PATTERSON: Yes.

MR. GICALE: Let's have the stenographer swear the witness, please.

Whereupon,

MORRIS PATTERSON

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Mr. Patterson, this deposition is being conducted pursuant to Senate Resolution 120.

A Right.

Q This resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority and other related matters. This will be

4

the focus of today's deposition.

This deposition is being taken in advance of public hearings, which are currently ongoing. It is possible that you could testify at these hearings.

We will be asking a series of questions. You are testifying under oath. If you don't understand a question, let us know, we will rephrase it.

The stenographer will prepare a record of questions and answers. This deposition is to be treated as Committee confidential until the commencement of the hearings. Prior to the hearings you will receive a letter from the committee telling you that you may come to the Senate to review the transcript of your deposition, and make note of any corrections for transaction on an errata sheet.

I should note that this is a phone deposition. You are down in Little Rock, and we can make arrangements to get that deposition to you to make corrections so that you don't have to come to Washington. Do you understand that?

A Yes.

1 Q If you are called to testify at a public
2 hearing you will be permitted to have a copy of your
3 deposition transcript four days in advance of your
4 testimony.

5 A Right.

6 Q You may be represented by counsel. It is
7 my understanding that you are there alone today?

8 A I am, with the exception of my wife,
9 understand.

10 Q Now, since this is Committee confidential,
11 she should probably not be there -- she should not be
12 there in the room.

13 A She is not in the room. She is upstairs.

14 Q All right. Objection -- there is no one
15 else there; correct?

16 A That is correct.

17 Q Objections to the form --

18 A This is my home.

19 Q Objections to the form of questions will be
20 noted for the record. Counsel may object on grounds
21 of privilege or relevance. The Committee Chairman
22 may rule on objections where the witness refuses to

1 answer a question.

2 At this point, do you have any questions?

3 A No, I do not.

4 Q Could you state and spell your full name
5 for the record?

6 A Morris Patterson.

7 Q And how is that spelled?

8 A M-o-r-r-i-s, P-a-t-t-e-r-s-o-n.

9

10

11 Q Your present business address?

12 A I'm retired.

13

14

15

16

17

18 Q And how long have you been retired?

19 A September of '94. September 30, 1994.

20 Q And where were you working prior to being
21 retired?

22 A Arkansas State Building Services.

1 Q And how long had you worked there?

2 A 18 years and two months.

3 Q What year did you start there?

4 A Gosh, I don't know. I have been there -- I

5 was there 18 years and two months when I retired.

6 MR. PORTNOY: I guess it would make it

7 1976, sir.

8 BY MR. GICALE:

9 Q 1976; is that about right?

10 A Yes.

11 Q What was your job there?

12 A When I left there, I was leasing manager.

13 Q What were your responsibilities there --

14 how long were you the leasing manager there?

15 A From December 13th of '91, I believe. I am

16 not positive on that now.

17 Q But you think it was December of 1991?

18 A Yes.

19 Q To the time you retired?

20 A Prior to that I was leasing supervisor.

21 Q And how long were you the leasing

22 supervisor?

1 A Well, from the commencement of my

2 employment up to that day.

3 Q So from '76 to approximately 1991, you were

4 the leasing supervisor?

5 A I believe that is correct. Now, that is my

6 belief, understand.

7 Q What did you do before you came to that

8 authority?

9 A I was a loan officer in a bank.

10 Q Which bank was that?

11 A I was with First American National Bank in

12 North Little Rock, for 9-3/4 years. Then I worked

13 for Commercial National Bank which is -- neither one

14 of them are in existence. I was with them two months

15 prior to going with the state of Arkansas, and

16 working for state building services. State building

17 services is the only job I ever held with the state.

18 Q Was that the -- the building services job,

19 what kind of appointment was that?

20 A The state building services?

21 Q Yes.

22 A I leased property for the state of

1 Arkansas.

2 Q What kind of appointment was that? That
3 was a civil service job or political appointment or
4 what was it?

5 A No, I just applied and got the job.

6 Q Did you have any type of civil service
7 protection?

8 A Sir?

9 Q Pardon me?

10 A I beg your pardon, sir.

11 Q Civil service protection?

12 A No.

13 Q What were the terms of your employment?

14 A I don't understand the question.

15 Q I mean were you subject to being asked to
16 leave at any time?

17 A I beg pardon. I can't hear you, I'm sorry.

18 Q Was there any term to your appointment?

19 A No.

20 Q No?

21 A No.

22 Q Did people come and go with different

10

1 administrations or --

2 A Yes, in some cases. In the case of the
3 administrator, yes. That changed with -- you know,
4 if a Republican was elected or if a Democrat or
5 whatever, you know, the governor, you would be
6 appointed administrator -- I mean the directors,
7 excuse me, but not on my level.

8 Q Who was your supervisor during the period
9 1984 through 1987?

10 A '84 through '87?

11 Q Yes.

12 A Helen Herr. She was the administrator.

13 Q And who did she report to?

14 A She reported to the director.

15 Q And who was that?

16 A Paul Mallard was the director, I believe,
17 at that time. It was either Paul Mallard or Chris
18 Burrow.

19 Q Now did Mr. Brenner ask you whether or not
20 you had any documents or you had an opportunity to
21 review any documents with respect --

22 A I have no documents whatsoever.

1 Q And have you reviewed any documents in
2 preparation for this deposition?

3 A I have not.

4 Q Pardon me?

5 A I have not, sir, because I have none to
6 review.

7 Q Did you talk to anyone about the substance
8 of what you would be testifying to today?

9 A I have not.

10 Q Have you spoken with anyone at the White
11 House about this issue?

12 A I have not.

13 Q At any time?

14 A No, I have not.

15 Q The stenographer is having some
16 difficulty. If you could wait until I finish my
17 question before you answer, we would appreciate it.

18 Did you speak to anyone at your former
19 agency about the circumstances surrounding these
20 leases, the Madison Guaranty and Madison Financial?

21 A At the time they were made?

22 Q Since that time?

1 A No.

2 Q Now, do you recall -- hello?

3 A Yes, sir.

4 Q We seem to be having some technical
5 difficulties. Can you hear me?

6 A Yes, sir.

7 Q During the time that you were employed as a
8 leasing supervisor, do you recall any leases that the
9 state had with Madison Guaranty Savings & Loan or
10 Madison Financial?

11 A Yes, sir.

12 Q Do you recall which agency of the state was
13 involved in those leases and when those occurred?

14 A I cannot tell you when they occurred
15 because like I said to you prior -- to answer your
16 question, I do not have those copies of the leases in
17 my hands to tell you the dates they were made, but I
18 do recall making one for Arkansas Development Finance
19 Authority. Then at a later date, I reworked the
20 lease to expand the space for said agency, Arkansas
21 Development Finance Authority. Then I made another
22 lease for the Department of Finance and

1 Administration for the revenue office with Madison.

2 Q Do you recall whether it was Madison

3 Guaranty or Madison Financial?

4 A It was Madison -- no, I don't.

5 Q All right.

6 A Because I do not have those -- I am sure

7 you have a copy of the leases in front of you.

8 Q Right. Now, when you say you worked the

9 leases, could you briefly describe your

10 responsibilities as a leasing supervisor and --

11 A Sure.

12 Q During that time period?

13 A Sure.

14 Q The time period I am talking about would be

15 '76 through '91, and then focusing on the time

16 period when there were leases with ADFA and the

17 department of finance.

18 A My job responsibility was I did leases, and

19 I supervised other people under me, leasing

20 specialists.

21 Q When you say you did leases, did you draw

22 the leases up?

14

1 A Yes, I did.

2 Q Were you involved in the bidding process,

3 or the negotiation process for the --

4 A I was.

5 Q What was your level of involvement in that

6 process?

7 A Well, in this particular case, no bidding

8 was done. The ADFA wanted to go in this Madison

9 space and I was told to go ahead and do the lease.

10 And the same way with the revenue department.

11 Q Well, isn't it true that ADFA did not want

12 to go into this space, Mr. Epes did not want to go

13 into this space, and asked that it be -- that he be

14 allowed to go someplace else? Do you know whether or

15 not that's the case?

16 A I do not, sir.

17 Q Who told you that ADFA wanted to go into

18 this space?

19 A My supervisor.

20 Q Who was that?

21 A Helen Herr told me to do the lease for

22 ADFA, at Madison.

1 Q Now, was there a bidding procedure at that
2 time, or some kind of --

3 A Well, in some cases there were, and in this
4 particular case there was not a bidding procedure on
5 this case.

6 We drew up plans, state building services
7 furnished Madison the plans, and they were approved
8 by Mr. Epes and his staff, and they gave us a price
9 and we did the lease.

10 Q Who gave you the price?

11 A Madison.

12 Q Were you involved in any meetings with
13 people from Madison?

14 A No, I was not. To the best of my
15 knowledge, the only person that I was involved with
16 that was associated with Madison was Davis Fitzhugh
17 if my memory is correct on that, sir.

18 Q And do you recall Jim or Susan McDougal
19 being in the offices of Mr. Mallard or --

20 A I do not know -- I wouldn't know Susan
21 McDougal if she knocked on my door, or James McDougal
22 either, sir. I have never met them, I have never

16

1 said hello to them, I never shook their hands, I do
2 not know them, period, either one of them.

3 Q Was this unusual for the state at that
4 time, not to go out and get some bids for a site for
5 an agency?

6 A We -- we are not -- we were not required
7 to. The law did not require us to. I will say this
8 to you: Yes, it would have probably been best that
9 we did, but we are not required to by law.

10 Q I know, but was it unusual not to at least
11 attempt to get some bids or prices --

12 A No, not looking back at other leases across
13 the state. No, it was not unusual.

14 Q How would you select somebody if you didn't
15 know what the competition would offer you?

16 A I knew the competition in the area, because
17 I had all these other leases in the file that I could
18 use as a -- to compare it, the price of this specific
19 lease with.

20 Q Well, during this time period, I mean --
21 during this time period, just before the ADFA lease,
22 and I am going to represent to you that the copy of

1 an ADFA lease we have is dated 1984. Does that
2 refresh your recollection as to the date of the
3 lease?

4 A No. That has been a while back. I would
5 say that it would be in that time period somewhere,
6 but to say that that is correct, I could not, because
7 I have not reviewed anything, understand.

8 Q What was the predecessor agency to Arkansas
9 Development Finance Authority?

10 A I do not know, sir. I do not recall.

11 Q Do you recall where the agency moved from
12 before they went to the Madison space?

13 A No. I can tell you where they did go from
14 the Madison space, but where they were prior to, I
15 could not, sir. I do not recall, I'm sorry.

16 Q Do you recall a letter to Mr. Hendrickson
17 in 1979, who was -- he was the executive director of
18 Arkansas Housing Development Agency?

19 A Hendricks -- no, I do not recall that, sir.

20 Q Between the Donahue Foundation and Arkansas
21 Housing Development?

22 A No, sir.

1 Q 7th and Main Street, Little Rock?

2 A No, sir, I do not recall any such letter.

3 Q Do you recall why the Arkansas Finance
4 Authority was looking for space?

5 A They were expanding at that time, I
6 believe, sir.

7 Q Were there other leases you entered into in
8 that time period -- excuse me, strike that.

9 The other leases you entered into in that
10 time period, did you obtain bids in some form for
11 those leases?

12 A In some cases, and in most cases, no.

13 Q How would you obtain information about
14 leasing space if you didn't get bids?

15 A Okay. Excuse me. We kept a file of
16 properties that were for lease. In other words, if
17 you were out here and you were a property owner and
18 you had space to lease, if you called in, we would
19 tell you to send us some information on it, the
20 amount of space you had, what -- if it is full
21 service lease or no services or whatever. And you
22 would send us that information, the address of the

1 space, and if somebody came up to need the space, if
2 we felt like this would fit the agency's needs, it
3 was discussed, either over the phone or they came to
4 the office and would sit down and go over the space
5 with them. And if they were interested, then we
6 would show them the space.

7 And then that way we would get bids. If --
8 you know, it is immaterial where they moved.

9 Q Well, what do you mean, that way you would
10 get bids? You would get bids from more than one
11 person?

12 A Yes, yes.

13 Q So you would seek -- you would have a file
14 of potential sites?

15 A That is correct.

16 Q And then you would send the agency out to
17 these sites?

18 A Right.

19 Q And then go back to -- and then if the
20 agency came back and said look, we like site number
21 one, site number two, number three, you would then go
22 out and ask those sites to submit bids?

20

1 A That is correct. It is the floor plan that
2 would best suit their needs and then they would
3 submit bids.

4 Q How would you evaluate those bids?

5 A Costwise and location, parking, available
6 parking, handicapped accessibility, nearness to the
7 capitol or any other agency that they did business
8 with, that would be -- to help them perform their
9 duties. If they did business with a medical
10 facility, then we tried to locate them with a -- as
11 close or nearby a medical facility as possible.

12 Q All right. Now in this instance, Helen
13 Herr told you -- did not come to you and say look in
14 the file and find some space; she said ADFA would
15 like to go to Madison?

16 A That is correct.

17 Q Madison Guaranty space; correct?

18 A Right. Therefore I did not look at other
19 space, no.

20 Q Did they submit a bid or some sort of --

21 A We submitted plans. Arkansas State
22 Building Services has architects in the firm, in the

1 agency, excuse me. In conjunction with their people,
2 we drew the plans up and submitted them to Madison.

3 Q Now, you just described a scenario before
4 where the bidders would submit plans.

5 A Well, no, no, no. We always drew the
6 plans.

7 Q Okay.

8 A And without -- if it was a huge project,
9 say 40-, 50,000 square feet. But if it was a small
10 project or small agency then the state building
11 services always did the plans.

12 Q I thought you said earlier when someone
13 would request space you would look through the file,
14 find some locations, ask the agency to go out and
15 look at the space, come back with some suggestions
16 and then ask the prospective owners to submit some
17 plans and bids?

18 A No. If I did I misinformed you.

19 Q I may have misunderstood.

20 A If it was a small agency -- and 99 percent
21 of the cases, state building services did the plans,
22 and with the feedback of the director or deputy

22

1 director or whoever the director of the agency
2 wanting the space gave that authority to. It might
3 be the director that said this is the way I want it.
4 Or he might have given the authority to some of his
5 people to be the person that we are -- contact for
6 the plans.

7 Q In any event, in this instance, Helen
8 Herr -- and by the way, the Helen Herr you are
9 referring to also was known as Helen Vowell?

10 A That is correct.

11 Q At that time?

12 A Correct.

13 Q V-o-w-e-l-l; correct?

14 A Right.

15 Q In this instance she came to you and said
16 they are going to go in the space. Did she tell you
17 whether or not Mr. Mallard had given her any
18 instructions with respect to this --

19 A You mean Mallard.

20 Q Mallard had given any instructions --

21 A He did not.

22 Q -- with respect to this space?

1 A No.

2 Q She didn't tell you that?

3 A She did not.

4 Q Did you talk to Mr. Mallard about this?

5 A No. To the best of my knowledge,
6 Mr. Mallard was not in it at all and I had no
7 discussion with Mallard on it, to the best of my
8 knowledge. I know it's been a long time, understand,
9 but that's to the best of my recollection.

10 Q Did you have any discussions with anybody
11 from the governor's office or the governor about
12 this?

13 A Did not.

14 Q Did you know that the governor and
15 Mr. McDougal and Mrs. McDougal were business
16 associates at the time?

17 A No, I did not. Not at that time. I do
18 now.

19 Q When did you find that out?

20 A Well, I watched on TV here sitting around
21 the house here, in the Whitewater thing.

22 Q Now, do you recall any other leases around

24

1 this time period that -- where something similar
2 happened, where Helen Herr would come in and say this
3 is where we are going to go, without getting any
4 bids?

5 A No, I do not.

6 Q This was the only one that occurred like
7 this during this time period?

8 A That's the only one I can recall.

9 MR. PORTNOY: Could you clarify, Lou, what
10 you meant when you said "occurred like this," because
11 I think the witness has testified about bids in a few
12 different ways and I am confused.

13 MR. GICALE: When I say "occurred like
14 this," what I mean by this, where your supervisor
15 comes in and says the agency is going to go to a
16 certain location, and there is no reviewing of files
17 to see available space to determine if there is
18 available space, and no agency going out and coming
19 back with the suggestions based on your referral of a
20 number of different places, and no bid from a number
21 of people; just one --

22 THE WITNESS: Well, this is not -- to

1 single source a lease with the state was not
2 uncommon. Not -- on a small scale now. I am talking
3 about a small space. Now if we are talking about
4 30-, 40-, 50,000 square feet, and the building had to
5 be built, yes, they were bid 100 percent of the
6 time.

7 BY MR. GICALE:

8 Q Well, do you remember any other single
9 source bids during the time period that the ADFA
10 lease --

11 A Well, the revenue office with Madison
12 was --

13 Q Other than Madison?

14 A No. But I know it was common practice
15 to -- not to bid them. But I can see going back to
16 that time period, and not knowing the connections or
17 anything, as you said, with the McDougals and the
18 Clintons, there is nothing irregular about this
19 lease, going there. It was my understanding that
20 this was where Wooten Epes wanted to go.

21 Now I might have been misinformed and I
22 can't tell you who told me but he readily worked with

26

1 me on this to do the floor plan, like he was happy to
2 go there.

3 Q Well, did you become aware of the fact that
4 Mr. Epes had a meeting with the governor where he
5 indicated that he did not want to go there?

6 A No, I do not.

7 Q You said it was a regular practice but you
8 can't remember any other leases during which there
9 was a sole source lease during this time period;
10 correct?

11 A Right.

12 Q Now, do you recall in March of 1984 that
13 Wooten Epes sent a letter to Helen Vowell saying that
14 AHDA, Arkansas Housing Development Agency, had
15 decided to reject the proposal of Madison Guaranty to
16 provide office space at 1501 Main Street?

17 A No, I am not aware of it, no.

18 Q Do you recall --

19 A I do not recall it, sir.

20 Q -- that he said that initially they had
21 thought that the Madison Guaranty property would be
22 less expensive, but after analyzing the bid for 6852

1 square feet, and a rental of \$46,886, that there was
2 not -- they did not have the option of controlling
3 utility costs and therefore the cost was \$7000 per
4 year higher than they thought; do you recall that?

5 A I do not recall such a letter, sir.

6 Q Do you recall that Mr. Epes and his agency
7 had concerns about security at the location of the
8 Madison Financial space?

9 A Yes, I was aware of the security problem.
10 A guard was --

11 Q You are going to have to repeat that. You
12 were aware of the security problems?

13 A I was -- yes. He -- I believe he told me
14 verbally, yes, that he was concerned about security
15 there.

16 Q Mr. Epes?

17 A And the security guard was furnished to the
18 Madison building.

19 Q Mr. Epes told you that he was concerned
20 about the security?

21 A Yes.

22 Q Do you recall in February 1984 Susan

1 McDougal coming to the offices?

2 A If she did I didn't see her. I am not
3 aware that she came or if she didn't come,
4 understand. I did not visit with Susan McDougal and
5 I do not know Susan McDougal, sir.

6 Q The offices I was referring to were the
7 offices of the Arkansas State Building Services. You
8 don't recall her being there; correct?

9 A I do not. If she did I didn't visit with
10 her.

11 Q Now the location for this lease was 1501
12 Main Street in Little Rock?

13 A 1500 Main, in that block, yes.

14 Q It could have been 1501?

15 A Yes.

16 Q And 6852 square feet of office space?

17 A I couldn't verify that, sir.

18 Q Do you recall it was a lease through June
19 of 1989?

20 A I do not. I don't -- I am not looking at
21 the lease so therefore I can't say it is or it is
22 not, sir.

1 Q Did you go to look at the space?

2 A Yes, I did.

3 Q Who did you go there with?

4 A I went by myself.

5 Q And did you submit some evaluation of this
6 space? Where was the location of it?

7 A What -- in the Madison building, of course,
8 if I understood your question correctly.

9 Q What was the condition of the space when
10 you went to look at it?

11 A Well, it was unimproved space. And a lot
12 of renovation was required to put them in there, if I
13 recall correctly.

14 Q Were there other state offices near this
15 building?

16 A No.

17 Q What part of the city was this in?

18 A This was in southeast -- if you are talking
19 about from the downtown business area, southeast of
20 the downtown area.

21 Q Okay. Did you go to that site with -- in
22 addition to being there yourself, did you go there

1 with people from Mr. Epes's agency?

2 A I do not recall. I do recall going there
3 with an architect.

4 Q Do you recall his name?

5 A Glenn Cox.

6 Q Glenn Cox?

7 A Yes.

8 Q Now in terms of security, that was a
9 concern of Mr. Epes and so there was some provision
10 for that in the lease; correct?

11 A I don't know that there were -- I do not
12 recall that there was provisions in the lease, but I
13 do know that a security guard -- I went down there in
14 a later time for something -- what it was, I do not
15 know, and it might have been when I reworked the
16 lease to add the additional space to it -- there was
17 a security guard in the bank.

18 Q Well, did you make some special provision
19 for security or did Mr. Epes ask you to make some
20 special provision for security?

21 A I do not recall that. I do recall him
22 being concerned about security.

- 1 Q Why was he concerned about it?
2 A Well, it was adjacent to a rundown area of
3 the city.
4 Q Do you recall anything else about that
5 initial lease in '84?
6 A No.
7 Q There came a point in time in September of
8 1985 when there was an additional lease for another
9 1456 square feet of office space?
10 A Yes.
11 Q At 1501 --
12 A I reworked the lease.
13 Q Could you wait until I finish, please.
14 A Sure.
15 Q At 1501 Main Street. Now what was this
16 about?
17 A This was -- they needed additional space,
18 so I rewrote the lease and expanded to it take in
19 this additional space.
20 Q Now, the initial lease was for \$8.50 per
21 square foot. And the new lease was for \$9.32 per
22 square foot. Do you recall why that occurred?
-

- 1 A Yes, sir. We expanded into the open space,
2 where there was no offices, no floor covering,
3 et cetera et cetera. It had to be built out and
4 out. In other words, offices had to be dropped in
5 and done, and floor coverings, what have you,
6 painting, I believe some window coverings. There was
7 a considerable amount of renovation done.
8 MR. PORTNOY: The record should recall the
9 higher price stated in the second lease is for the
10 additional space but not for the space that was
11 previously leased.
12 MR. GICALE: Correct. That's correct.
13 MR. PORTNOY: Is that your recollection,
14 sir?
15 BY MR. GICALE:
16 Q Mr. Patterson, is that your recollection?
17 A What was that? I'm sorry. I didn't hear
18 you.
19 Q Mr. Portnoy pointed out that the new price
20 was for the additional space, not for the old space?
21 A True. Yes. I do recall that there was a
22 difference in price, and what you are saying is that

1 the 8.50 did not go all the way across the whole
2 property. True.

3 Q We are not suggesting that.

4 A No, I understand.

5 Q The 8.50 remained and this new price was
6 just for the additional space?

7 A Right, because of the high dollar
8 renovation cost.

9 Q Do you remember some firm by the name of
10 Witsell, Evans & Rasco that provided some renovation
11 assistance in December of 1984?

12 A No, sir.

13 Q W-i-t-s-e-l-l, E-v-a-n-s and R-a-s-c-o?

14 A Architectural firm.

15 Q They are an architectural firm?

16 A Yes.

17 MR. PORTNOY: Off the record for a moment.
18 (Discussion off the record.)

19 MR. PORTNOY: Back on the record.

20 BY MR. GICALE:

21 Q Now, do you recall, Mr. Patterson, the
22 additional lease in September of 1985 extended to

1 September of 1988; do you recall that?

2 A That it extended to when? We got cut off
3 some way then.

4 Q September of '88?

5 A That sounds about right.

6 Q Do you remember anything else about that
7 second lease?

8 A No, I do not. You mean the additional
9 space?

10 Q Yes.

11 A No, I do not.

12 Q Did you deal with Davis Fitzhugh on --

13 A I believe I did on that, to the best of my
14 knowledge I did. And I know I did with the revenue
15 office lease, there is no question about that. And I
16 believe I did on the first lease.

17 Q Do you recall a construction company by the
18 name of D&H Construction Company and a Keith Jackson
19 from that company working on the space?

20 A Vaguely, sir, vaguely.

21 Q What do you remember about them?

22 A Well, I just remember the name Jackson,

1 because they did some of the renovation, I believe,
2 to the best of my recollection.

3 Q Now, you don't have the benefit of this,
4 but we have a letter dated November 6, 1985, from
5 Davis Fitzhugh to you, Mr. Morris Patterson, state
6 building services, regarding former service station
7 at 1520 Main Street, Little Rock.

8 Now, do you -- it is a letter starts out by
9 saying "in accordance with our conversations, the
10 lease terms for this building will be \$7.50 a foot,
11 \$17,362.50 annual rent payable in advance." Do you
12 recall what this letter was about?

13 A Yes. It was -- that letter was in regards
14 to the revenue lease that was across the street. We
15 put a revenue, local revenue branch office in that
16 building.

17 Q Now, how did that lease come about?

18 A Well, the revenue department told me they
19 wanted to go into the space and they wanted to move
20 from over on Wealth Street.

21 Q Hold on for a second. The revenue
22 department wanted to move from which street?

36

1 A Wealth Street.

2 Q How do you spell that?

3 A W-e-a-l-t-h, from Wealth Street. It was
4 east of there. And they were being robbed frequently
5 and they wanted out of the old building. They --
6 they were broken into I don't know how many times. I
7 would say more than two or maybe three or four
8 times. And they wanted to move out of there, and I
9 don't know how they found this old service station
10 here that Madison owned at the time, but they wanted
11 to move in it, and I was directed to do it.

12 Q Who directed to you do it?

13 A John Cox was the administrator at that
14 time, and, of course, since that time he has -- he is
15 no longer with us. He is dead at this time.

16 And he wanted to go in it, so I proceeded
17 to work up some plans on it, and we went in the --
18 renovated the old service station.

19 Q John Cox was the administrator for which
20 agency?

21 A Department of Finance and Administration.

22 Q Now, he talked to you directly about this,

1 or he went to your supervisor, Helen Herr or Helen
2 Vowell?

3 A He called me -- he talked to me about it.

4 Q Why did he talk to you directly instead of
5 going through your supervisor?

6 A Well, now, that I couldn't answer you
7 there, sir, because -- it would be guesswork on my
8 part.

9 Q Why do you think --

10 A Well, John and I had a good rapport and he
11 always dealt with me on it.

12 Q Didn't you have to get approval from your
13 supervisor?

14 A Yes, she knew about it and she approved it
15 or it never would have happened.

16 Q Did he tell you why he selected that site,
17 1520 Main Street?

18 A No.

19 Q Did he tell you whether or not he had any
20 conversations with the governor, Governor Clinton
21 about that site?

22 A No.

1 Q Or did he tell you whether or not he had
2 any conversations with anybody from the governor's
3 office about that site?

4 A No.

5 Q Did he ask you to get bids on other space
6 or ask you whether or not there were other buildings
7 with available space?

8 A No.

9 Q Were there other buildings with available
10 space at a similar price or a price that was less
11 expensive than that at the time?

12 A Well, at that particular time, I was told
13 that we needed to go in that area of the city,
14 because that is a fringe area of lower class or lower
15 income people. The black population is in that area
16 and we need to pacify them, and that's the reason we
17 need to go into that area.

18 Q Who told you that?

19 A That came down from revenue office, I
20 believe. That we need to keep a revenue office for
21 their benefit, and you know, they are taxpayers,
22 too. I agreed with that.

- 1 Q Who told you that?
2 A The revenue department.
3 Q Who from the revenue department?
4 A I believe it was Mr. Cox.
5 MR. GICALE: We have to go off the record
6 for a minute.
7 (Discussion off the record.)
8 BY MR. GICALE:
9 Q With respect to this revenue lease,
10 Mr. Portnoy has asked me to make it clear that
11 this -- the revenue office had a number of offices
12 throughout the area; correct?
13 A True.
14 Q And in fact, this was a -- this was a lease
15 for 2315 square feet, correct, roughly? Do you
16 recall --
17 A I do not recall a specific number but it
18 sounds about right. It was a small service station
19 that was completely renovated.
20 Q All right. Now, it was Mr. Cox that told
21 you you had to go into that --
22 A He told me that's where they wanted to go.
-

- 1 Q They wanted to go into that part of the
2 city?
3 A Yes.
4 Q Did you attempt to obtain information on
5 other space in that part of the city from Mr. Cox?
6 A No.
7 Q Why not?
8 A Because he said that's where he wanted to
9 go.
10 Q Suppose there was space that was less
11 expensive?
12 A Well, that would have been my -- that would
13 have been my downfall not locating it, I guess.
14 Q Didn't you look upon that as your
15 responsibility to see whether or not you could get
16 cheaper space --
17 A I did not look for cheaper space because he
18 said they wanted to go in this space, so we proceeded
19 to get a price on it, and draw the lease up.
20 Q So you went in there not knowing whether or
21 not there was cheaper space in the same area from
22 some other landlord?

1 A Well, I had a good idea from my records in
2 the office of other space around the city, and --

3 Q Well, did you have records of other space
4 in that area?

5 A No. To the best of my knowledge, that
6 is -- we did not.

7 Q So you had no --

8 A But this is in a fringe area, you've got
9 old rundown properties. Then you go into commercial,
10 out near Roosevelt Road.

11 Q So you had no comparable price from
12 buildings in that area?

13 A I do not, sir.

14 MR. PORTNOY: I believe Mr. Patterson is
15 saying there were no comparable properties in that
16 area. There was nothing to compare.

17 MR. GICALE: I don't know that he said
18 that.

19 BY MR. GICALE:

20 Q Were there other buildings in that area?

21 A I am not aware of any.

22 Q No other buildings?

1 A I am not aware of any at the time, I don't
2 believe.

3 Q That was the only building in that area?

4 A There might have been other buildings, but
5 this is where they wanted to go.

6 Q I understand that, but there were other
7 buildings in that area?

8 A Yes, there were other buildings in the
9 area, sure.

10 Q Did you go to the owners of those other
11 buildings in that area?

12 A No, I did not.

13 Q Going back to the ADFA lease. Was Madison
14 Financial -- in your file were there other landlords
15 that had space at prices that were less expensive
16 than Madison Financial?

17 A You know, that's a hard question to answer,
18 because normally you would have had renovation
19 regardless of where they went.

20 Q Well, did you check to see or was it an
21 issue?

22 A No.

1 Q So you didn't bother to review that with
2 the ADFA leases because they wanted to go, they told
3 you they wanted to go --

4 A They wanted to go in the Madison building.

5 Q So price wasn't an issue?

6 A Secondary.

7 Q Since you didn't compare it with any other
8 location, it was not an issue; correct?

9 A Well, true, true. Had it have been 15, 20
10 a square foot it would have been an issue then, I
11 suppose.

12 Q Well, at least you did not compare it with
13 any other location?

14 A No, I did not.

15 Q And again when I say compare it, I am
16 talking about the ADFA lease at 1501 Main Street.

17 A That's true.

18 MR. PORTNOY: You are talking about the
19 ADFA lease or the revenue lease?

20 MR. GICALE: No, I am talking about the
21 ADFA lease.

22 BY MR. GICALE:

1 Q Earlier we started talking about 1520 Main
2 Street, the revenue lease. And I said with respect
3 to the ADFA lease you didn't compare prices either?

4 A I guess not.

5 Q And you said --

6 A Well, I did not on either one of them.

7 Q Now, did you meet or talk with the
8 McDougals or anybody from the governor's office about
9 the second -- the Department of Finance and
10 Administration lease?

11 A I did not.

12 Q Now we have a memo in our files, it is to
13 you from John Cox, dated November 7, 1985, copies to
14 Charles Ragland, he was the commissioner at the time?

15 A That is correct.

16 Q "Relocation" --

17 A He is deceased.

18 Q Pardon me?

19 A And who also is deceased.

20 Q "Relocation East Little Rock revenue
21 office, and it says efforts to secure new location
22 for the East Little Rock revenue office have

1 culminated in an offer through Madison Guaranty
2 Savings & Loan Association to lease space to us at
3 16th and Main, Little Rock." That's the location you
4 recall; correct?

5 A Yes.

6 Q And it talks about a six-year lease
7 beginning at 7.50 per square foot for the first three
8 years; do you recall that?

9 A I recall the letter. I do not recall the
10 specifics in the letter.

11 Q Now, the last paragraph of the letter says
12 "if you would begin activity to contract with
13 Madison Guaranty under these terms, I will be
14 grateful for your help." Is this how you found out
15 that Cox wanted to go to this space or was it a phone
16 call?

17 A Now that, I cannot answer. It had to be
18 one of the two, I will say that. But which came
19 first, I do not know, sir. It was more than likely a
20 phone call and then the letter came over and then he
21 told me about the letter that was -- that would have
22 been forthcoming.

1 Q Well, it appears in this memorandum, and I
2 am -- actually there is a paragraph that I did not
3 read and I would like to read to you now in full. It
4 says "I understand that this space can be acquired on
5 a six-year lease beginning at 7.50 per square foot
6 for the first three years of the term. Beginning the
7 fourth year of the term, the square foot price will
8 increase to \$7.95 for the remaining three years.
9 Department of Finance and Administration will assume
10 responsibility for paying utility and janitor
11 costs."

12 Now, that's some very specific and detailed
13 information about this lease; correct?

14 A Yes.

15 Q So it appears that Mr. Cox had already
16 talked to the Madison people about the cost of such a
17 lease?

18 A That's the way I would have to believe it,
19 yes.

20 Q So it seems he had worked out some of the
21 details and he just wanted you to draw up a contract;
22 correct?

1 A I would -- from what you have read I would
2 have to -- I could not agree or disagree with you.

3 Q What I represented to you, that the date of
4 that memo from Cox to you was November 7th, and then
5 you wrote -- we have another letter or a letter dated
6 November 12, 1985 from you as a leasing specialist,
7 to Davis Fitzhugh, vice president of Madison
8 Financial Corporation, regarding 1520 Main Street,
9 Little Rock, and it is enclosing an approved lease
10 agreement between Madison Financial and Arkansas
11 State Building Services. So approximately five days
12 later you had a lease agreement sent to Davis
13 Fitzhugh, which is -- do you recall that?

14 A There was a cover letter that always went
15 out with the lease forms.

16 Q Well, this talks about a lease -- an
17 approved lease agreement, so this was the form to be
18 signed or was this a --

19 A This was the lease form --

20 Q Okay.

21 A -- that was to be signed by Madison.

22 Q Okay, so within five days of this

1 memorandum from Mr. Cox, you had -- you sent the form
2 out to Mr. Fitzhugh for Madison Financial
3 Corporation; correct?

4 A Sounds that way.

5 Q When I earlier said it was an agreement
6 between Madison Financial and this Arkansas State
7 Building Services for the use of the Department of
8 Finance and Administration revenue division; correct?

9 A Right, that's the way the leases all read.

10 Q So would it be safe to say within this five
11 days, there was little or no negotiation on this; you
12 just sent out the lease for them to sign?

13 A That is -- I would say that would be true.

14 Q Now I am also going to represent to you
15 that we have a letter to Mr. John Cox from you, dated
16 the same date, November 12, 1985, enclosing a file
17 copy of the approved lease agreement between your
18 agency and Madison Financial Corporation. Now that
19 seems to indicate to me that you weren't sending out
20 a form to Mr. Fitzhugh, but you were sending out a --
21 a lease agreement, a completed lease agreement; would
22 that be correct?

1 A The lease agreements were drawn up in
2 triplicate.

3 Q Yes.

4 A The lessor signed, that would have been
5 Madison Financial, signed first, it came back to my
6 office, my office sent it on to revenue for -- in
7 that case would have been Mr. Charles Ragland, I
8 believe, would have signed off on it, then it came
9 back to my office and the leases were distributed.
10 The original copy would have been kept by SBS, the
11 building services, a copy would have gone to Madison,
12 and a copy to DF&A revenue department.

13 Q My point is you were not just sending them
14 out a form. In fact the date of the lease is
15 November 7th, 1985, I will represent that to you.
16 You don't have the form in front of you.

17 A No.

18 Q But I will tell you that the agreement we
19 have before us is dated November 7, 1985.

20 A Well, that letter that you just mentioned,
21 that's where the signed copy, I gather, went to
22 Mr. Cox for his records.

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1 Q Right, and the other letter that I
2 referenced, to Mr. Fitzhugh, was also a copy of the
3 signed agreement?

4 A Well, it could have been. Or it could have
5 been -- and I am not looking at the letter but always
6 a cover letter went out with the leases, for their
7 review and signature. They were -- to send them
8 back, and then the letter indicated such. Or -- we
9 signed off on the leases always last, SBS did.

10 Q Okay. Well, just to put this thing in
11 perspective, earlier I said to you that there was a
12 memorandum from Mr. Cox to you dated November 7,
13 1985. And remember I read that to you and it talked
14 about 7.50 per square foot?

15 A Right.

16 Q On the same day that you received that
17 memorandum, there was -- the lease agreement was
18 dated for Madison Financial and Department of Finance
19 and Administration for 1520 Main Street,
20 Mr. Patterson?

21 A Sir.

22 Q Did you hear me?

1 A No, sir, I didn't. We got cut off
2 temporarily. I'm sorry.

3 MR. PORTNOY: Do you have the signature
4 page of that lease?

5 MR. GICALE: I don't.

6 MR. PORTNOY: I would like the record to
7 reflect the date of the lease on the first line,
8 November 7, 1985, but we don't know when the lease
9 was actually signed.

10 MR. GICALE: We don't have that page at
11 this point in time. We will try to obtain it.

12 BY MR. GICALE:

13 Q Now, we have a memorandum, as I said, dated
14 November 7, 1985 from Cox to you, and then we have a
15 lease dated November 7th, the same day, for the
16 space?

17 A Right.

18 Q So do you recall drawing up a lease the
19 same day that you received this memorandum from
20 Mr. Cox?

21 A I do not recall, sir. I'm sorry. And I
22 wouldn't think you would expect me to.

1 MR. PORTNOY: I would point out with
2 respect to the lease, the first lease with Madison
3 Guaranty, the typed text of the lease states the
4 lease was made on August 1st, whereas the signatures
5 are -- excuse me, April 1st, whereas the signatures
6 are April 9th and 10th, so it is reasonable to assume
7 there was a lag time.

8 BY MR. GICALE:

9 Q You are talking about the ADFA lease?

10 MR. PORTNOY: That's correct, but I am
11 pointing out other leases drawn by this same person
12 in the same process reflect a delay between the date
13 of the lease, as stated in type face on the first
14 line of the lease, and the actual signature date.

15 MR. GICALE: Well, I can accept that.

16 BY MR. GICALE:

17 Q In this instance, as I pointed out,
18 Mr. Patterson, the letter to Mr. Cox says "enclosed
19 is a file copy of the approved lease agreement
20 between your agency and Madison Financial
21 Corporation," and so that would seem to suggest that
22 there was a final lease in place that you were

1 sending Mr. Cox; correct?

2 A I would have to agree with you.

3 MR. PORTNOY: That a lease was drafted.

4 MR. GICALE: No, that that was a final
5 lease.

6 BY MR. GICALE:

7 Q Correct, Mr. Patterson?

8 A Sir?

9 Q That letter to Mr. Cox would seem to
10 suggest that there was a final lease?

11 A Yes, it would -- that would -- I would have
12 to agree with you.

13 Q Now, do you recall around February of '86
14 being informed that Davis Fitzhugh had purchased from
15 Madison Financial Corporation the revenue office
16 located at 1520 Main Street?

17 A I do recall the letter and the purchase but
18 the date I cannot help you with, sir, I'm sorry. But
19 yes, he did purchase it from Madison, and you should
20 have a copy of that.

21 Q And that you were --

22 A That's the revenue lease at 1520 Main.

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1 Q And you were informed of that by Jim
2 McDougal or Mr. Cox, do you recall?

3 A I believe I just got the letter. No one
4 informed -- the letter just came to me.

5 Q Now, do you recall an individual by the
6 name of C.E. Anderson?

7 A Yes, I do.

8 Q Who was C.E. Anderson?

9 A C.E. Anderson is deceased. I believe he
10 was deputy director.

11 Q Of what?

12 A Of ADFA.

13 Q Do you recall that sometime in 1986 he
14 wrote a letter to you about some problems with
15 security at the 1501 space, Main Street space?

16 A I do recall the letter. I couldn't certify
17 the date, however.

18 Q Do you recall some complaints about
19 employees' cars being broken into?

20 A Yes.

21 Q And the fact that there had been no
22 security service except for approximately three

1 months of the 2-1/2 years that they had the lease?

2 A I do recall a security problem.

3 Q Do you recall --

4 A Cars being broken into.

5 Q Do you recall that they were telling you --
6 that Mr. Anderson was telling you that Madison
7 Financial had, despite promises to the contrary, had
8 not provided security services, except for
9 approximately three months in the 2-1/2 years that
10 they had been there?

11 A I do -- like I said, I do recall they did
12 have a security problem. Other than that, I can't
13 recall, sir.

14 Q What do you recall doing about it?

15 A I think I called him and/or visited with
16 him on it.

17 Q Visited with Anderson?

18 A Yes.

19 Q And what did you do about it?

20 A I do not recall, sir. I'm sorry.

21 MR. PORTNOY: At this point, Mr. Patterson,
22 I would just like to ask you to stop for a second. I

1 would like to ask Mr. Gicale to articulate for the
2 record what basis there is under the resolution to
3 explore the matters that occurred after the leases
4 were signed.

5 MR. GICALE: Because this relates to
6 Madison Guaranty and the workings of Madison
7 Guaranty, this is Madison Financial.

8 MR. PORTNOY: It is your contention any
9 action taken by Madison in any context is within the
10 scope of the resolution?

11 MR. GICALE: I think this is a concern of
12 the lease. One of the concerns of the lease was
13 about security and this demonstrates that this was a
14 legitimate concern and this continues to be Madison
15 Guaranty.

16 MR. PORTNOY: I would ask you to identify a
17 provision in the resolution under which this is
18 encompassed.

19 MR. GICALE: To conduct an investigation
20 and public hearings into, and study of, all matters
21 that have any tendency to reveal the full facts about
22 the operations, solvency, and regulation of Madison

1 Guaranty Savings & Loan Association, and any
2 subsidiary, affiliate or other entity owned or
3 controlled by Madison Guaranty Savings & Loan
4 Association.

5 MR. PORTNOY: So is it your contention that
6 that provision is so open-ended that one could
7 inquire into anything that occurred at Madison
8 Guaranty at any time?

9 MR. GICALE: My contention is that I can
10 inquire into the things that I am asking about right
11 now. This is a lease with Madison Financial, which
12 is a subsidiary of -- it is a service corporation of
13 Madison Guaranty. There was a concern about
14 security. This was a sole source bid on a lease;
15 there was no -- nobody questioned the price of the
16 lease; there was a concern about security, and this
17 relates to that issue.

18 MR. PORTNOY: Actually the record should
19 reflect the statement you just made is not consistent
20 with other testimony we have had, although it may be
21 consistent with this witness's testimony.

22 With your articulation on the record I will

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1 withdraw my objection, and allow Mr. Patterson to
2 answer questions, but I would point out that the
3 contention throughout has been that there was
4 something improper about the leasing process and that
5 the fact that someone's car was broken into a couple
6 of years into the lease is hardly pertinent to that
7 inquiry.

8 MR. GICALE: Well, just -- again, for the
9 record, it wasn't a question of just a car being
10 broken into. I think that what Mr. Anderson said to
11 Mr. Patterson on November 7, 1986 was that they had
12 no security service except for approximately three
13 months of the 2-1/2 years that they had been there.

14 So, it isn't limited to one car break-in.

15 BY MR. GICALE:

16 Q Okay, Mr. Patterson?

17 A Yes.

18 Q Do you recall what, if anything, you did to
19 resolve these concerns with Madison Guaranty or
20 Mr. --

21 A I believe that I discussed it with
22 Mr. Anderson. I may have talked to Mr. Fitzhugh

1 about it; I do not recall, sir.

2 Q Did there come a point eventually when
3 conditions got so intolerable that ADFA had to leave
4 that location?

5 A Are you saying did they have to because of
6 intolerable conditions?

7 Q Did there come a time when they left that
8 space?

9 A Sir?

10 Q Pardon me?

11 A Go ahead, repeat the question, please, sir.

12 Q Did there come a time when ADFA relocated
13 from the Madison Bank building to the Technology
14 Center?

15 A Yes.

16 Q Why was that?

17 A They claimed they wanted to be closer to
18 the banks. I believe that's correct.

19 Q Now this was prior to the expiration of
20 their lease; correct?

21 A That is correct, to the best of my
22 knowledge.

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1 Q So in essence --

2 A They broke the lease.

3 Q They broke the lease, understanding that
4 they would -- that the Technology Center would pay
5 Madison some amount of money, approximately \$50,000
6 is the number we have, I don't know if you remember
7 the number?

8 A I was thinking 25,000. You may be right.

9 Q Well, there were two payments of 25,000
10 each?

11 A Okay then.

12 Q One on September 1st.

13 A I was told they did buy the lease out.
14 Technology Center paid Madison off and got out of the
15 lease.

16 Q So now, who was it that came to you and
17 told you that ADFA wanted to get out of the lease?

18 A I believe I heard it from Helen Herr. I
19 believe the lease with Technology Center when ADFA
20 moved from Madison's property to the Technology
21 Center --

22 Q You what?

- 1 A I did not handle that lease.
- 2 Q How did you become aware of it? Why were
- 3 you involved in it or was it just --
- 4 A Well, I believe I was just -- I discussed
- 5 it in the office that they were going to buy them
- 6 out, and I believe Helen Herr handled that lease.
- 7 MR. PORTNOY: So you have no firsthand
- 8 knowledge about this, sir?
- 9 BY MR. GICALE:
- 10 Q You have no firsthand knowledge of the
- 11 Technology Center lease?
- 12 A No, did not handle it, sir.
- 13 Q You just became aware from talking to Helen
- 14 Herr?
- 15 A Yes.
- 16 Q That ADFA wanted to leave the Madison
- 17 space?
- 18 A Yes.
- 19 Q And go to the Technology Center space?
- 20 A Yes, right downtown off of Main and --
- 21 Q Could you repeat what you said?
- 22 A I said the Technology Center is at Markham

- 1 and Main, right downtown.
- 2 Q How do you spell that street?
- 3 A M-a-r-k-h-a-m.
- 4 Q A-r-k?
- 5 A M-a-r-k-h-a-m.
- 6 Q Markham?
- 7 A Yes.
- 8 Q Do you recall anything else about the
- 9 leases with the Arkansas Development Finance
- 10 Authority or the department of revenue and Madison
- 11 Guaranty or Madison Financial?
- 12 A No.
- 13 Q Who is Carl Brooks?
- 14 A Carl Brooks is the leasing specialist that
- 15 was with our agency at that point in time.
- 16 Q Did he work on --
- 17 A Started to work on this lease with Madison,
- 18 and ADFA, and if my memory is correct, I was told to
- 19 do it because he was overloaded with work at that
- 20 time. In other words, take it over.
- 21 Q Do you recall when you were -- during this
- 22 period when there were these leases with ADFA and the

1 revenue services, whether there was anyone in the
2 governor's office who acted as a liaison with the
3 state building services office?

4 A If they did, I am not aware of it, sir.

5 Q Did you know who Betsey Wright was?

6 A Yes, I know Betsey Wright. I talked to
7 her -- not about this.

8 Q What did you talk to her about?

9 A I do not recall at this time. I had one
10 conversation with her, two or three, four years after
11 that. And it was limited to one conversation. But I
12 do not -- I do not remember what the conversation was
13 about, but it was not about Madison nor ADFA nor
14 anything that you are questioning me about today, I
15 don't believe, or I believe I would recall.

16 Q Well, was she the liaison with the state
17 building services office?

18 A No, to the best of my knowledge, she was
19 not.

20 Q Were you aware of a meeting that occurred
21 between Mr. Epes, Mr. Hardwicke and Governor Clinton
22 between March and April of 1984?

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1 A I am aware of no such meeting.

2 Q Did you ever learn that Mr. Epes was going
3 to meet with Governor Clinton to argue against ADFA
4 moving to the Madison space?

5 A I do not recall any such meeting to
6 object.

7 Q Did Mr. Anderson ever complain to you about
8 the space other than the security issue?

9 A No, sir.

10 MR. GICALE: I have nothing further at this
11 point. Mr. Portnoy will now ask you some questions.

12 THE WITNESS: Sure.

13 EXAMINATION

14 BY MR. PORTNOY:

15 Q I have just a few questions, sir.

16 When Mr. Cox told you that he wanted to
17 move the revenue office into the property at 1520
18 Main Street, why did he tell you that he wanted to
19 move?

20 A Well, because -- he -- because of a number
21 of break-ins that they had.

22 Q Could you repeat that, sir, for the court

1 reporter?

2 A I believe he told me the reason he wanted
3 to move into this location was the fact that -- of
4 the number of break-ins that had occurred on the
5 Wealth Street location.

6 Q On the Wealth Street location, sir?

7 A It was directly east of or almost directly
8 east of the 1520 Main address.

9 Q So Mr. Cox considered the 1520 Main Street
10 building to be in a safer neighborhood than his
11 current office?

12 A True.

13 Q I believe you testified, sir, that there
14 were a number of revenue offices throughout the city
15 and the state?

16 A Yes. About 140-something. Give or take a
17 few.

18 Q Do you know if the Department of Finance
19 and Administration tried to spread out those offices
20 in different neighborhoods?

21 A Yes. And as a population grew in that
22 area, we always tried to move the offices

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1 accordingly.

2 Q Would you say that the old office on Wealth
3 Street and the new office on Main Street were in the
4 same neighborhood or not?

5 A They are.

6 Q They are in the same neighborhood?

7 A Yes.

8 Q So Mr. Cox was trying to move to a new
9 office in a safer part of the same neighborhood?

10 A That is correct.

11 Q Were there any comparable spaces in the
12 same neighborhood as the one at 1520 Main Street?

13 A I couldn't say.

14 Q By "comparable," sir --

15 A I didn't look at any other locations.

16 Q Let me ask you this, sir: Were there many
17 office buildings in that neighborhood?

18 A No.

19 Q Were there any office buildings besides
20 Madison that you are aware of?

21 A My -- I never was -- no, not offices, no.

22 Q If Mr. Cox wanted to move his revenue

1 office to a new location in the same neighborhood, he
2 would have had to find raw space or space to develop?

3 A That is correct.

4 Q So when you say that you didn't compare the
5 space at 1520 Main Street with other spaces, you
6 didn't really have any other spaces you could have
7 compared it to, did you, sir?

8 A Not really, no.

9 Q And when you say that you didn't compare
10 the price on that space to other spaces, or the cost,
11 you didn't really have any other spaces that you
12 could have compared the price or cost with; did you,
13 sir?

14 A Well, since I didn't -- since I didn't
15 compare it with a -- or get another bid on it,
16 certainly I did not. However, I did know -- by my
17 record of the office space lease in Pulaski County
18 and in the city of Little Rock I did have a
19 comparable there to go back to my records and see if
20 I was out of line or in line or what.

21 Q And in fact the lease on the space for the
22 revenue office was at approximately \$7.50 a square

1 foot?

2 A I believe that is correct.

3 Q And that was a fair price for space in that
4 neighborhood?

5 A Sir, this was an old -- this was an old
6 service station that had been closed down for many
7 years. The pumps had to be taken out. The lifts had
8 to be taken out. We had to pour a new floor. It was
9 completely renovated inside and out, and a new roof
10 on it and the parking lot was worked over.

11 Q So the revenue office got brand-new,
12 never-before-used space?

13 A Well, it had been used but it was renovated
14 space, sir, totally renovated space.

15 Q Do you recall whether the building turned
16 out to be a good quality office for the revenue
17 service?

18 A Yes. The workmanship was good on it and we
19 had a good revenue office. We are still in that
20 location, to the best of my knowledge, unless they
21 moved since I left the state.

22 Q So in your judgment, sir, it was a good

1 deal for the state?

2 A Well, I don't know what they spent on it
3 but it was a considerable amount they had to spend on
4 it to renovate it, and yes, I think it was a fair
5 deal, using other comparables around the city.

6 Q There weren't a lot of people clamoring to
7 build or renovate space in that neighborhood, were
8 there, sir?

9 A Sir?

10 Q At the time that the revenue office moved
11 into the 1520 Main Street property, there were not
12 many people clamoring to build new buildings or
13 renovate space there, were there, sir?

14 A Yes. At that point in time, there was
15 quite a bit of renovation just west of that location,
16 two or three blocks away on Main Street, or on South
17 Main Street there. There was quite a few renovations
18 in progress. Whether they ever finished them or not,
19 I do not know, sir.

20 Q So you would describe this as a growing
21 area?

22 A Well, it was an area that was being

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1 renovated and brought out of the slum, so to speak,
2 or thereabout. Old, old buildings that they were
3 gutting and renovating. I don't know what they
4 intended to use them for, but they were updating the
5 buildings quite a bit, quite a few of them around
6 there. Just west of the revenue office, not east.
7 The east, where the revenue office is now, is an
8 older, residential area.

9 Q East of the current revenue office is where
10 the former revenue office was; isn't that correct?

11 A That's correct. And they were in an old
12 house over there.

13 Q Sir, Mr. Gicale asked you whether you did a
14 price comparison on the property at 1501 Main Street
15 for the first lease, for what was actually the
16 Arkansas Housing Development Agency at the time. And
17 you testified that you don't recall doing one?

18 A I do not.

19 Q Could someone else have done so?

20 A To the best of my knowledge they would not
21 have.

22 Q They would not have. So you would be the

1 only one who would have compared proposals from other
2 buildings or other spaces?

3 A I didn't do any, but if there had been any,
4 I would have done it, yes.

5 Q So it is your testimony, sir, that nobody
6 else besides Madison offered to lease space to AHDA?

7 A To the best of my knowledge, that is
8 correct.

9 Q Well, sir, I must tell you that we have in
10 our records a number of letters from other companies
11 that were offering to lease space to AHDA at about
12 this time.

13 A I said to the best of my knowledge.

14 Q Okay, that's what I am trying to clarify,
15 sir. So your recollection is that you didn't do any
16 comparison?

17 A I did not do any comparison myself, no,
18 sir, I did not. I definitely know that I did not
19 look at any other buildings, other than the Madison
20 building.

21 Q Sir, are you familiar with a building
22 called the One City Center at 7th and Spring?

1 A No, sir. I don't think I am.

2 Q Well, I would like the record to reflect
3 that we have a letter dated March 8, 1984, from Linda
4 Faulkner, the vice president for leasing at Flake and
5 Company, to Mr. Carl Brooks, a leasing specialist at
6 the Arkansas State Building Services asking that SBS
7 consider a building at One City Center for the
8 Arkansas State Housing Development Agency.

9 I would also like the record to reflect,
10 sir, that we have a letter dated February 10, 1984,
11 from Rebecca, I believe it is Carls or something
12 similar to that?

13 A I'm not familiar with those -- I did not
14 look at the building.

15 Q And that's a letter to Helen Vowell
16 regarding the Tower Building. Are you familiar with
17 the Tower Building, sir?

18 A Yes, I am.

19 Q Are you aware whether the Tower Building's
20 owners made a proposal?

21 A I am not -- they may or may not. I am not
22 aware of any proposal that anyone made.

1 Q Lastly, sir, are you aware of a property at
2 Brookwood Drive that was considered as a possible
3 location for the Arkansas Housing Development Agency?

4 A No, sir, I did not have anything to do with
5 that.

6 Q Or, sir, a -- the Arkansas Gazette
7 Building, are you familiar with that?

8 A I know where the building is. I am not
9 familiar that they made a proposal on it.

10 Q Well, sir, if I were to represent to you
11 that every one of those buildings I just identified
12 to you were offered as possible space for the
13 Arkansas Housing Development Agency in approximately
14 the time frame where the Madison Guaranty building
15 was leased, would you agree with me that somebody
16 must have considered those proposals, even if you
17 didn't?

18 MR. GICALE: If he knows. I would object.
19 Ask him whether or not he knows or remembers.

20 THE WITNESS: I did not look at those
21 buildings. I am not aware that they made a
22 proposal.

1 BY MR. PORTNOY:

2 Q Sir, if those people did in fact make
3 proposals and you didn't look at them --

4 A They didn't make a proposal to me.

5 Q I don't doubt that, sir. I am sure your
6 recollection is clear.

7 A I'm sorry for interrupting.

8 Q But what I am trying to find out is who
9 else might have looked at those proposals, and
10 whether somebody else --

11 A Who was the letter directed to?

12 Q Well, sir, the letters were directed to
13 various people. One was directed to Ms. Vowell, I
14 believe. Another was directed to Mr. Brooks --

15 MR. GICALE: I guess at this point don't
16 the letters speak for themselves?

17 THE WITNESS: I have nothing to lose, to
18 tell you the truth, and I am retired and nobody can
19 fire me over telling the truth, and I am not going to
20 tell you a lie about it.

21 BY MR. PORTNOY:

22 Q And nobody would ask you to?

1 A I thought you was.

2 Q The concern I have, and I will try to make
3 it plain for you and for the record, is that you've
4 testified that no properties other than the Madison
5 building were considered?

6 A No properties but the Madison building was
7 considered -- no other buildings were considered by
8 me other than the Madison building. Does that clear
9 the point up? And I am not look -- I did not look at
10 any other building other than the Madison building,
11 to the best of my knowledge, sir.

12 Q I don't want to put too fine a point on
13 this, sir, but you agree that other people in state
14 building services could have considered other
15 properties; wouldn't you?

16 A That's a possibility, yes, sir.

17 Q You don't know whether they did or didn't?

18 A I do not. I did not go with them to look
19 at other buildings.

20 Q And if we had documents indicating that
21 other buildings were offered and considered, you
22 would have no reason to dispute the --

1 A Would not.

2 Q -- the accuracy of those documents?

3 A I would not, sir. I can only tell you what
4 I did and what other people did and that's their
5 testimony.

6 Q Lastly, sir --

7 A Sir.

8 Q Are you aware of any improper pressure from
9 the governor's office for the state building services
10 department to select the Madison property?

11 A I am not. I am not aware of any pressure
12 whatsoever.

13 Q No one tried to pressure you, did they?

14 A Nobody tried to pressure me.

15 Q And nobody told you that anybody tried to
16 pressure them?

17 A I do not recall any -- being told this,
18 that they were being pressured to go.

19 Q So as far as you know, this was just a
20 normal standard leasing process?

21 A That's to the best of my knowledge, that is
22 correct.

1 Q It was run of the mill?

2 A Yes.

3 Q Nothing particular about it?

4 A Nothing to me raised a red flag, no, sir.

5 MR. PORTNOY: Thank you, sir. That's all I
6 have.

7 EXAMINATION

8 BY MR. GICALE:

9 Q I have a few questions, Mr. Patterson.

10 A All right.

11 Q Mr. Portnoy indicated to you that indeed
12 there are some letters with respect to the Arkansas
13 Housing Development Agency and some submissions about
14 potential other space in the area, and those are
15 dated in '83 and '84. But you don't know anything
16 about them; correct?

17 A No, I do not.

18 Q All you know is that sometime in -- at some
19 point in time -- and you don't even know the date
20 with certainty; correct -- at some point in time
21 somebody came to you, Ms. -- Mrs. Herr, or Vowell at
22 the time, came to you and said that ADFA wanted to go

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1 to the Madison Financial space?

2 A Right.

3 Q So you don't know what went on before she
4 came to you with that decision; correct?

5 A No, sir.

6 Q And so from that point forward, you did not
7 get involved in getting bids from other potential
8 landlords?

9 A That's correct, I did not.

10 Q You were just told that that was the space?

11 A That was the space and work out a deal, do
12 the floor plan, get the floor plans and get a price
13 and draw up the lease, and that's the way it went.

14 Q Now, when you just testified that this was
15 a normal leasing process, the normal leasing process
16 during that time period was to look at a number of
17 potential sites if that was possible; correct?

18 A In some cases we did and some cases we
19 didn't.

20 Q Now, in the instance of 1520 Main Street,
21 when you said that -- you testified -- strike that.

22 I believe Mr. Portnoy said to you that

1 Mr. Cox told you that 1520 was a safer office or a
2 safer space?

3 A Yes.

4 Q Did he tell you that? Did Mr. Cox tell you
5 that that location was safer?

6 A Yes.

7 Q How far away from the Wealth Street
8 address --

9 A It would be three or four blocks, five
10 maybe.

11 Q So he said that three or four blocks closer
12 was safer?

13 A Well, it was right across the street from
14 Madison, you see, and they had at one point in time,
15 now I don't know exactly when it was, but they had
16 security over there, see.

17 Q At --

18 A At Madison.

19 Q Well, as the -- as Mr. Anderson pointed out
20 to you at some later point, they only had security at
21 that building three out of -- three months out of
22 2-1/2 years?

1 A I would not confirm or deny that. I don't
2 know the time frame there, sir, honest.

3 Q When Mr. Portnoy also asked you whether or
4 not there were other buildings in the area, this
5 lease for the revenue authority was approximately
6 1500 square feet of space; this was an old gas
7 station; right?

8 A Right.

9 Q You are not suggesting that there weren't
10 other buildings or other -- there wasn't 1500 square
11 feet of space near that location?

12 A I will not deny that there might have
13 been. I did not check.

14 Q You didn't check because you were told that
15 he wanted to go there?

16 A That's what Cox said they wanted to do.

17 Q So, is your recollection that there were
18 other buildings nearby that had 1500 square feet of
19 space?

20 A There might have been.

21 Q There were certainly buildings --

22 A There were buildings.

1 Q -- nearby, all right.

2 A In that vicinity. However, they were in
3 the same condition at that point in time that the old
4 gas station --

5 Q I understand, but you didn't check to see
6 if the owners would renovate them for the state, did
7 you?

8 A No, I did not.

9 Q Now, I believe you also testified that one
10 or both of these deals you believe were good deals
11 for the state?

12 A At that point in time they were, as far as
13 I was concerned.

14 Q But you also testified that you didn't do
15 any comparisons to see whether or not --

16 A No, other than what was in -- than what I
17 had on file in the office of leases in the immediate
18 area.

19 Q But you didn't look to any other leases in
20 the immediate area and you didn't look to get any
21 other bids? You did not?

22 A I did not look at any other space, no. 1

1 did do my comparables within the materials that I had
2 in my -- in SBS's leasing section.

3 Q You did?

4 A Yes.

5 Q All right. What did you compare this lease
6 with?

7 A Well, I can't recall now. I'm sorry.
8 But --

9 Q Weren't you told by Mrs. Vowell at the time
10 that this was the space that they wanted to go into,
11 and so you didn't check --

12 A That's correct.

13 Q You didn't check any further at that point,
14 did you?

15 A Yes, I always -- normally I always check
16 what was on file in the office, but I -- it is
17 immaterial. I was told this is where they wanted to
18 go.

19 Q Well, you didn't -- she didn't say, here is
20 where they want to go, why don't you check your other
21 space in your file and let me know whether or not it
22 is okay, did she?

1 A I beg your pardon. Would you repeat that.

2 Q When she told you this is where ADFA wanted
3 to go, she didn't say to you, here is where they want
4 to go, why don't you check in your file to see if
5 it's okay value-wise, did you?

6 A They want to go.

7 Q Right, she told you this is where they want
8 to go and you went about --

9 A To draw up the lease.

10 Q To draw up the lease?

11 A And it was similar in the revenue. John
12 Cox said that is where they wanted to go and I
13 proceeded to get everything -- get the renovations
14 done, the space like they wanted to, and draw up the
15 lease.

16 Q And in terms of --

17 MR. PORTNOY: The record is unclear and I
18 would like it to be clear. Did you, sir, or did you
19 not, check the cost or price of comparable buildings
20 in connection with the leases from Madison Guaranty
21 and for the revenue office?

22 THE WITNESS: Like I said, I've checked --

1 I probably checked in-house, the records in-house.

2 BY MR. GICALE:

3 Q Why would you have checked in-house if this
4 is what you were told, that this is where they were
5 going?

6 A If this was way out of line, that's why,
7 and I would have tried to negotiate it down depending
8 on the amount of renovations that had to be done.

9 Q Do you recall specifically looking at
10 your --

11 A Like I said, I probably did, but I cannot
12 testify that I did or I didn't. But I normally did.

13 Q But you also testified that in these two
14 instances, you were told in the first instance by
15 Mrs. Vowell and in the second instance by Mr. Cox
16 that this is where these agencies wanted to go?

17 A That's right.

18 Q And you went about the business of drawing
19 up those leases?

20 A That's correct.

21 Q And again, in the instance of the 1520
22 lease, I pointed out to you that there was a

1 memorandum from Mr. Cox dated the 7th, and that we
2 have a lease, the first page at least has the date of
3 November 7th, 1985, so at least there was an effort
4 to draw it up on that date, whether or not it was
5 executed on that date, so there wasn't a whole lot of
6 talk and consideration about that second lease,
7 correct, that you are aware of?

8 A That I recall, that's correct.

9 Q Or that you engaged in, because it appears
10 as though the very day you got a memorandum there was
11 a lease --

12 A Sure, according to what you are telling
13 me.

14 MR. PORTNOY: But you don't have an
15 independent recollection of that, do you, sir? You
16 are just basing that on the information Mr. Gicale
17 has provided you?

18 THE WITNESS: I'm sorry, I can't hear you,
19 sir. I don't understand your question.

20 BY MR. GICALE:

21 Q Mr. Portnoy is asking -- this is what we
22 have here. These are these memos and you don't

1 remember the memos; correct?

2 A Memos from?

3 Q The memo from Cox, for instance, to you?

4 A I remember a memo from Cox but the contents
5 of the memo I do not.

6 Q And you don't remember the date?

7 A No.

8 Q Do you remember how quickly you acted upon
9 a request from Cox, either verbally or by virtue of a
10 memo?

11 A I do not recall, sir.

12 Q And in terms of whether or not you looked
13 at comparables, facts in terms of the cost of space,
14 your testimony is probably you did but you don't
15 specifically remember doing it?

16 A That is correct. That is my statement,
17 sir, exactly.

18 MR. GICALE: I have nothing further at this
19 point.

20 EXAMINATION

21 BY MR. PORTNOY:

22 Q Sir, I have just a few follow-ups.

1 You testified earlier that you don't recall
2 whether Mr. Cox first notified you of his interest in
3 the space at 1520 Main Street by telephone or in
4 writing?

5 A I believe I testified to the fact that we
6 did have a conversation, and -- and the letter, but I
7 do not know which one came first.

8 Q Well, sir, if, as Mr. Gicale has suggested,
9 you received the letter and drafted the lease on the
10 same day, would it seem more likely to you that you
11 spoke to Mr. Cox before you received the letter, or
12 after?

13 A Okay, in that particular case, I would have
14 to say that it would be my belief that we discussed
15 it after the letter came.

16 Q Could you have discussed it --

17 A On that day.

18 Q Could you have discussed it before the
19 letter came as well, sir?

20 A Well, sure.

21 Q It is possible that Mr. Cox called you,
22 told you he was looking at space, and then confirmed

1 your conversation later with a letter?

2 A That -- that's possible, yes, sir.

3 Q Would you have needed a letter in order to
4 draft up the lease?

5 A Yes, I would have.

6 Q You needed some sort of formal writing?

7 A You needed something in writing other than
8 verbal to draw up a lease agreement. That was our
9 procedure, that any time they requested space and/or
10 wanted us to proceed with space, that a letter should
11 be in the file, so stating.

12 Q So if Mr. Cox had called you and said we
13 are interested in this space, you would have said
14 okay, but I need a letter?

15 A That's correct.

16 Q So you could, in fact, have spoken to
17 Mr. Cox a week or two weeks or even more before you
18 got the letter?

19 A Sure. Like I said, I do not know whether
20 we spoke before or after. And I couldn't -- I don't
21 recall that. I do know that we did talk about it.

22 But was it before the letter came or after, I do not

1 know. Or I do not recall.

2 Q Sir, was it unusual for an agency head or
3 an agency representative to call you and say we think
4 we found some space that we think would be good for
5 us?

6 A No.

7 Q That happened frequently?

8 A That happened frequently.

9 Q So there was nothing unusual about Mr. Cox
10 and his agency identifying space for themselves and
11 then coming to you and asking you to draft up a
12 lease?

13 A In a particular -- here would be a scenario
14 of that. Let's just say that in the north part of
15 the state that an agency was needing space. We would
16 ask them to go out and survey the areas, see what
17 space was available, without knowledge of the
18 landlord or making a commitment on it, because of our
19 limited staff.

20 Q So, in fact, it was helpful to you when an
21 agency went out and found space for itself?

22 A That's true. That is true. Because of the

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1 limited staff.

2 Q So you had no objection to Mr. Cox coming
3 to you and saying we've identified some space that
4 will be good?

5 A That would be good for the agency, or a
6 good location for the agency, no, as long as he
7 didn't commit the agency or commit state building
8 services.

9 Q And as far as you know he didn't commit the
10 agency or state building services, did he, sir?

11 A To the best of my knowledge, he did not.

12 Q Lastly, sir, I believe you testified that
13 Mr. Cox was interested in the space at 1520 Main
14 Street in part because it was near Madison Guaranty's
15 building?

16 A No, no. Because they wanted to move
17 because of the break-ins over there on Wealth
18 Street.

19 Q Yes, sir, but I am asking you a slightly
20 different question. I appreciate that they wanted to
21 move because there had been break-ins and security
22 problems at their old office.

- 1 A Right.
- 2 Q And they were looking to move to a safer
3 neighborhood; isn't that correct?
- 4 A Right.
- 5 Q And they believed that the neighborhood or
6 the buildings adjacent to the Madison Guaranty
7 building would be safer?
- 8 A Well, it was -- it was -- it would have
9 been safer, plus the fact this was in an old house
10 that -- oh, gosh, they had mice problems, they had
11 roach problems, to the best of my knowledge, and then
12 they had all the break-ins.
- 13 Q What I am trying to get to --
- 14 A The quality of the space was much better in
15 the new location.
- 16 Q Sir, the new location was directly adjacent
17 to a big office building, wasn't it?
- 18 A Yes, sir.
- 19 Q So there was more activity in the
20 neighborhood, was there, sir?
- 21 A That is correct, in the new location.
- 22 Q That is what I am saying.

- 1 A Yes.
- 2 Q And that would make a neighborhood safer,
3 wouldn't it?
- 4 A Well, I would think so, yes, sir.
- 5 Q So there were good reasons why Mr. Cox
6 might want to be near the Madison Guaranty building?
- 7 A Well, true. He could have banked there. I
8 don't know if he did.
- 9 Q But if he needed to stay in that
10 neighborhood, which you've indicated he wanted to
11 do --
- 12 A It was my understanding -- this was a
13 directive that came down to me, I don't know whether
14 it came down from the governor's office or SBS
15 administrator -- that we did need to stay in that
16 area, to serve that area of the population of the
17 city.
- 18 Q So Mr. Cox felt an obligation to stay in
19 that neighborhood; correct?
- 20 A True.
- 21 Q And he wanted safer space; correct?
- 22 A True.

- 1 Q And the Madison building --
2 A Better space.
3 Q Better space as well as safer space?
4 A Yes.
5 Q And the Madison building was one of the
6 bigger commercial properties in that immediate
7 neighborhood?
8 A Yes, newer properties.
9 Q Newer?
10 A Yes.
11 Q So it would have been logical for Mr. Cox
12 to try to locate his new office near the existing
13 commercial development in that neighborhood, wouldn't
14 it, sir?
15 A I would think so, yes, sir.
16 MR. PORTNOY: Thank you, sir. That's all I
17 have.

EXAMINATION

BY MR. GICALE:

- 18
19
20 Q Mr. Patterson, were there any other revenue
21 offices near there?
22 A No.

- 1 Q Pardon me?
2 A No, that served the whole east end of
3 Little Rock. And even the downtown area of Little
4 Rock. And the nearest one would have been over by
5 the capitol, which was the main revenue office, and
6 then we had some out in the western section of the
7 city.
8 Q How far away was the one in the capitol?
9 A How far was it from the capitol?
10 Q Yes.
11 A I would say as the crow flies, six, seven
12 blocks, maybe eight.
13 Q So the -- did the main revenue office have
14 services available for taxpayers?
15 A Yes. Yes.
16 Q Okay. And that was --
17 A They would have been -- 7th and Marshall,
18 yes, that was the main revenue office.
19 Q So that was about --
20 A For the capitol area?
21 Q So this was six blocks from the location of
22 1520 Main Street?

1 A No, no, no. That was across town. 7th and
2 Marshall office and the 1520 Main office.

3 Q That was the question.

4 A Several -- they are several blocks there
5 and I couldn't tell you, it is not a mile, I know
6 that, but it is several blocks.

7 Q Several blocks between what and what?

8 A 1520 Main Street to 7th and Marshall.

9 Q Right. Several blocks?

0 A Yes. But the Marshall Street and the
1 capitol are about seven or eight blocks apart.

2 Q I'm sorry, you misunderstood my question.
3 I am talking how far was it between 1520 Main Street
4 and the revenue office -- and the revenue office on
5 7th Street?

6 A Gosh, I don't know. It is a quarter to
7 half a mile.

8 Q All right.

9 A I haven't measured it, understand. But
20 there is quite a bit of distance.

21 Q About seven or eight blocks away?

22 A No. You are confused now. Between 1520

1 Main and 7th and Marshall is about a quarter to a
2 half a mile apart.

3 MR. GICALE: Okay. Just a moment,
4 Mr. Patterson.

5 MR. PORTNOY: While you look at that, can I
6 ask a question to get a sense of perspective.

7 MR. GICALE: Yes.

8 MR. PORTNOY: Was the Wealth Street nearer
9 or farther from the 7th Street revenue office?

10 THE WITNESS: It would be farther.

11 MR. PORTNOY: So the new revenue office
12 would be a little closer.

13 THE WITNESS: Yes, by about three or four
14 blocks approximately. In other words, the 1520 Main
15 Street would be three or four blocks closer to the
16 7th and Marshall Street; is that --

17 MR. PORTNOY: That was the question, sir.
18 Thank you.

19 BY MR. GICALE:

20 Q I am going to point out, Mr. Patterson, for
21 the record, to represent to you we have a letter
22 dated November 6, 1985, directed to you from Davis

1 Fitzhugh. In the first sentence it says "in
2 accordance with our conversations the lease terms for
3 this building" -- and he is referring to 1520 Main --
4 "will be 7.50 a foot, \$17,362.50 annual rent
5 payable." Do you recall that as being the --

6 A I remember the 7.50 a foot, sir, but I do
7 not recall the footage or the gross amount annual
8 rent.

9 MR. GICALE: I have nothing further.

10 EXAMINATION

11 BY MR. PORTNOY:

12 Q Just one last thing. Mr. Gicale just read
13 to you from a letter dated November 6th, which
14 indicates that you had already spoken with
15 Mr. Fitzhugh about the terms and conditions of the
16 lease at 1520 Main Street. Does that indicate to
17 you, sir, that you must have had a conversation with
18 Mr. Cox about 1520 Main Street before he sent up the
19 November 7th memorandum?

20 A Sir, I couldn't -- I couldn't answer that.
21 I do not recall.

22 Q Well, sir, if on November 6 Mr. Fitzhugh is

1 talking about a conversation he had with you and then
2 on November 7th, Mr. Cox sends you a memorandum,
3 isn't it clear that you had a conversation about that
4 building before you received the memorandum from
5 Mr. Cox?

6 MR. GICALE: Conversation with whom?

7 MR. PORTNOY: At least with Mr. Fitzhugh.

8 MR. GICALE: Well, we -- go ahead. Do you
9 recall?

10 THE WITNESS: I do not recall.

11 MR. PORTNOY: Okay.

12 THE WITNESS: It sounds reasonable that I
13 would have had the conversation with Mr. Cox prior to
14 receiving such.

15 BY MR. PORTNOY:

16 Q And you first heard of this property from
17 Mr. Cox; correct?

18 A Yes.

19 Q Not from Mr. Fitzhugh?

20 A That's correct.

21 Q So if you spoke with Mr. Fitzhugh it must
22 have been after you spoke with Mr. Cox?

1 A I would -- that would sound reasonable
2 because I found out the location where they wanted to
3 go from Mr. Cox.

4 MR. GICALE: Well, Mr. Patterson, it is
5 also possible -- the date of this letter I read to
6 you is dated November 6, 1985, so presumably it was
7 sent out that date, you got it the next day. It is
8 also possible that Mr. Cox sent you a letter and said
9 you would be getting something from Mr. Fitzhugh
10 about the price and some details the next day;
11 correct?

12 THE WITNESS: That's possible.

13 MR. GICALE: I have nothing further.

14 MR. PORTNOY: Thank you, sir. That's all
15 we have.

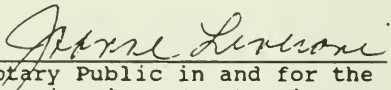
16 (Whereupon, at 12:03 p.m., the deposition
17 was concluded.)

18
19 -----
20 MORRIS PATTERSON
21
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

100

I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

**DEPOSITION OF ROBERT B. BARNETT
IN RE: S. RES. 120**

MONDAY, FEBRUARY 19, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of ROBERT B. BARNETT, called for examination pursuant to notice of deposition, at 9:45 a.m. in Room 534 of the Dirksen Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.
Majority Associate Special Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

MICHAEL S. SUNDERMEYER, Esq.
Williams & Connolly
725 Twelfth Street, NW
Washington, DC 20005
On behalf of Williams & Connolly Law Firm

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1 PROCEEDINGS

2 Whereupon,

3 ROBERT B. BARNETT

4 was called as a witness and, having first been duly
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. BARTOLOMUCCI:

8 Q Good morning, Mr. Barnett. As I told you,
9 my name is Chris Bartolomucci. I'm an associate
10 special counsel with the Committee. This is a
11 deposition being conducted pursuant to Senate
12 Resolution 120. As I'm sure you know, that
13 resolution establishes a Special Committee
14 administered by the Banking Committee to conduct an
15 investigation of Whitewater Development Corporation
16 and certain other related matters, including matters
17 related to the handling of documents in Vince
18 Foster's office following his death.

19 The procedure, very briefly, is I'll be
20 asking you some questions, and then Mr. Kravitz will
21 have the opportunity to do so and then there will be
22 follow-up if so desired by either of us.

4

1 This deposition is being conducted in
2 advance of public hearings. I know you've already
3 testified at one set of hearings and you may or may
4 not be called to do so again. You've been sworn in.
5 I'm sure you're very familiar with deposition
6 procedure, so if at any point you don't understand a
7 question I've asked you, just please ask me to
8 rephrase and I will, and similarly, tell me if you
9 need a break, although I don't imagine this
10 deposition will be very lengthy.

11 Our court reporter is going to prepare a
12 record of the questions and answers and we're going
13 to treat this deposition as committee confidential
14 until the commencement of hearings. That means
15 hopefully it won't be disclosed to anyone outside of
16 the Committee. You'll have a chance to review the
17 deposition transcript to make any corrections, if you
18 wish. And if we ask you to come appear at a public
19 hearing, you'll be given a copy of your transcript
20 hopefully four days in advance of any appearance.

21 I see you're represented by counsel today.

22 MR. SUNDERMEYER: No, that's not correct.

1 He's unrepresented. I'm here --

2 MR. BARTOLOMUCCI: First, would you
3 identify yourself for the record.

4 MR. SUNDERMEYER: Sure. Mike Sundermeyer.
5 I'm here representing Bob's and the law firm's
6 clients because of the ethics issues and privilege
7 issues that have arisen in the course of
8 interrogating the Williams & Connolly lawyers. I
9 have been attending on those topics, but I'm not
10 actually technically representing the witness
11 himself.

12 MR. BARTOLOMUCCI: You're here in the same
13 capacity you were here in connection with
14 Mr. Kendall's deposition?

15 MR. SUNDERMEYER: That's correct.

16 MR. BARTOLOMUCCI: Thank you for that
17 clarification.

18 Objections to the forms of questions will
19 be noted for the record. Objections may also be
20 raised on grounds of privilege or scope. The
21 Committee chairman has the authority to make a final
22 determination as to the propriety of the assertion of

1 any objection or claim of privilege.

2 Other than Mr. Sundermeyer, did you speak
3 with anyone in anticipation of this deposition?

4 MR. SUNDERMEYER: That's privileged.

5 MR. BARTOLOMUCCI: I think the substance of
6 a conversation could be privileged, but in order to
7 assess the validity of a claim of privilege, I think
8 you would have to identify at least who you spoke to
9 and when.

10 MR. SUNDERMEYER: Let's go off the record,
11 if you want to for just a minute.

12 MR. BARTOLOMUCCI: Sure. Off the record.
13 (Discussion off the record.)

14 BY MR. BARTOLOMUCCI:

15 Q We've said in the discussion off the record
16 which I'm not going to attempt to summarize here, is
17 it your testimony that you did speak with persons
18 other than Mr. Sundermeyer in preparation for this
19 deposition, but that to disclose the identity of who
20 you discussed it with would be privileged?

21 MR. SUNDERMEYER: I guess my position on
22 that is, if there was any discussion with this

1 witness or including this witness, if there was, to
2 answer that question would be privileged.

3 BY MR. BARTOLOMUCCI:

4 Q Just so it's clear, you're not telling me
5 one way or another whether you talked to anyone other
6 than Mr. Sundermeyer in preparation for this
7 deposition?

8 A Yes. I'm respectfully asking that we move
9 on and reserve that issue for now.

10 Q We will move on.

11 The first topic I want to take up, and I
12 know that you've given some public testimony on this
13 topic, is the time on July 27, 1993 when you went to
14 the White House. I believe it was your testimony in
15 December that you went to the White House to pick up
16 some documents?

17 A Can I tell you my position on this? If you
18 want to ask me about any of that, what I want to do
19 is go back to the transcript of that testimony and
20 get what it was I said and repeat to you what I said
21 because I don't think it's fair to me to ask me under
22 oath a second time to testify about the same things

1 that I've already testified about. If you have new
2 things, I'm open to it, but if you want to go over
3 the old ground, Chris, I really want to go back and
4 check my testimony so I don't get in a position of
5 contradicting myself.

6 Q I understand your concern, and we do have
7 some new information we want to go over with you, but
8 to do that, I need to lay the foundation -- the basic
9 facts of what happened on July 27th, and if you want
10 to consult the transcript, you should feel free to do
11 that. But I'm going to have to ask you some
12 questions which covered the ground covered in that
13 public hearing, the first question being am I correct
14 that you went to the White House on July 27, 1993 and
15 you did so to pick up some documents?

16 A Correct.

17 Q And it was also your testimony at that
18 hearing that Margaret Williams arranged for you to
19 come to the White House and do this?

20 A That was a subject of five, six pages of
21 discussion, and if you want, I can go back and find
22 them and go over them.

1 Q Let me ask you, is it your general
2 recollection that it was Margaret Williams who
3 arranged for you to come to the White House to get
4 those documents?

5 MR. SUNDERMEYER: Check the transcript.
6 There's no reason to go through this again.

7 THE WITNESS: It's unfortunate. It's going
8 to take a while.

9 BY MR. BARTOLOMUCCI:

10 Q Why don't you consult page 11, and page
11 77.

12 MR. SUNDERMEYER: Excuse me. Use the exact
13 words, Bob. I don't want any games played here.

14 THE WITNESS: Why don't I say on page 11 is
15 my testimony about this subject and I ask that it be
16 put in the record of this deposition.

17 BY MR. BARTOLOMUCCI:

18 Q Quite frankly, I don't think that's
19 responsive to the question I asked you.

20 MR. SUNDERMEYER: It's fully responsive.

21 MR. BARTOLOMUCCI: Maybe overly
22 responsive. You can't just cite the hearing

10

1 transcript as an answer to any question that may have
2 come up in connection with that hearing.

3 THE WITNESS: I'd be happy to read it into
4 the record.

5 BY MR. BARTOLOMUCCI:

6 Q I'm not trying to trick you. I want to lay
7 out the bare-bones --

8 THE WITNESS: Can we go off the record for
9 a minute?

10 MR. BARTOLOMUCCI: Let's go off the
11 record.

12 (Discussion off the record.)

13 BY MR. BARTOLOMUCCI:

14 Q To avoid the type of conflict we've been
15 having here, am I right that it was your testimony in
16 December, and it is your recollection that on July
17 27th at the White House, you saw Margaret Williams?

18 A Yes.

19 Q Was it your testimony, and is it now your
20 recollection that you don't remember seeing the First
21 Lady, even though it is possible that you might
22 have? Was that your testimony?

1 A That's one where I'd have to go back in the
2 transcript and give you exactly what I said because
3 again, that was subject to questioning, as I
4 remember, a couple, three Senators and several
5 pages. Mr. Chertoff was involved, so I'd have to go
6 find it because it's very -- it's in here and it's
7 clear and I'm happy to put it in the record, but I
8 don't want to go over it again.

9 MR. KRAVITZ: Can I interrupt for one
10 second and make a suggestion? I think what Bob was
11 trying to suggest to you earlier, and I think was a
12 good suggestion, if you want to just summarize the
13 subjects that Mr. Barnett testified about at the
14 hearing, I don't think he's going to object to your
15 summary of the subjects that he testified about.
16 Then ask him questions about new subjects.
17 Presumably, you want to ask him questions, for
18 example, whether he saw the billing records at the
19 White House on July 27, 1993. I don't think he's
20 going to object to that question. But asking him
21 questions about what he testified about, I mean, it's
22 just a waste of time. And I don't think --

12

1 MR. BARTOLOMUCCI: It's only a waste of
2 time if it is because of the abundance of caution
3 that Mr. Kendall and Mr. Sundermeyer are taking --

4 MR. KRAVITZ: Mr. Barnett.

5 MR. BARTOLOMUCCI: Mr. Barnett. Excuse
6 me.

7 THE WITNESS: But let me state clearly if
8 you want me to, I will spend the time, go back, find
9 exactly the testimony and put it in the record. I'm
10 not objecting to that, but it will take so much time
11 because I have it, you have it and it speaks for
12 itself.

13 MR. KRAVITZ: Your question is and I don't
14 know whether you're doing this intentionally or
15 not -- I suspect you're not -- your question is was
16 it your testimony that -- the only reason way he can
17 answer that is to go look and see what his testimony
18 is. It's not a productive question and quite
19 frankly, I don't see the relevance of it since we
20 have the transcript of what his testimony was.

21 MR. BARTOLOMUCCI: Again, I'm just trying
22 to lay what I think is necessary groundwork for

1 covering the new information that I do have.

2 BY MR. BARTOLOMUCCI:

3 Q Let me pose a question to you this way. As
4 you sit here today, do you have a recollection of
5 seeing Mrs. Clinton on July 27th, 1993?

6 A Again, I would have to go back and tell you
7 my recollections of that day specifically as
8 testified to here in the words that I used.

9 Q I'm asking for your recollection today.
10 That doesn't require you to go back to the question
11 of our prior hearing.

12 MR. SUNDERMEYER: Bob, is your recollection
13 any different today than it was when you testified?

14 THE WITNESS: No.

15 MR. SUNDERMEYER: Next question, please.

16 BY MR. BARTOLOMUCCI:

17 Q Is that also true of any questions you may
18 have been posed about Susan Thomases during the
19 December hearing?

20 A I don't think I was posed any questions
21 about Susan Thomases.

22 Q I could be wrong.

1 A Do you have a page reference? Let me have
2 it.

3 MR. SUNDERMEYER: Susan Thomases was
4 mentioned on the same page as Socks the cat.

5 MR. BARTOLOMUCCI: Page 128.

6 MR. SUNDERMEYER: Page 68 first.

7 MR. BARTOLOMUCCI: He asked me for a page
8 reference. I'm providing 128.

9 THE WITNESS: Okay.

10 BY MR. BARTOLOMUCCI:

11 Q I think it was near the end of the
12 hearing.

13 A Mr. Chertoff is talking to Diane Blair, and
14 then he's talking to me. "Mr. Barnett, do you
15 remember seeing Ms. Thomases when you were at the
16 residence?" My answer was "on what date?"
17 Mr. Chertoff said "on the 27th. I said "no, I have
18 no recollection of seeing Ms. Thomases when I was
19 there on the 27th," and that is correct.

20 Q When you said "and that is correct" --

21 A That is my testimony today and then, yes.

22 Q Did you talk to Susan Thomases at any time

1 during the week of July 20, 1993 to July 27, 1993?

2 MR. SUNDERMEYER: That's privileged.

3 MR. BARTOLOMUCCI: How is that privileged?

4 MR. SUNDERMEYER: Williams & Connolly's

5 interaction with third parties related to any of

6 this, to any subject matter in S Res 120 is

7 privileged. That is our work product. If it's

8 outside S Res 120, it's not pertinent.

9 MR. BARTOLOMUCCI: If Mr. Barnett called

10 Ms. Thomases to talk about baseball, I don't think

11 that would be privileged, for example.

12 MR. SUNDERMEYER: And it's also utterly not

13 pertinent, not pertinent to the Senate's

14 investigation whatsoever, so that's not a problem or

15 topic of questioning.

16 MR. BARTOLOMUCCI: I have to tell you,

17 Mr. Sundermeyer, we don't know whether it's

18 privileged or relevant unless he answers the

19 question. You know, and setting aside the substance

20 of conversation, I think this brings us back to the

21 problem that we discussed off the record at some

22 length. Are you going to instruct the witness not to

1 answer the question whether he had a conversation

2 with Susan Thomases the week of July 20th to 27th,

3 1993?

4 MR. SUNDERMEYER: Yes. I don't think that

5 is a proper question because if -- this is purely

6 hypothetical -- if such a conversation occurred, it

7 is either not pertinent to S Res 120, or it is work

8 product and/or -- those are the two issues. Those

9 are the two issues.

10 MR. BARTOLOMUCCI: Mr. Sundermeyer, as you

11 well know, your partner David Kendall was deposed at

12 length about conversations he had in connection with

13 the discovery of the billing records, conversations

14 with Ms. Sherburne, Ms. Huber, and I don't see how

15 you can claim that the question I just asked gets

16 into a privilege or work product matter.

17 MR. SUNDERMEYER: Because it has nothing to

18 do logically with compliance with document requests.

19 That was the basis of interrogation of Mr. Kendall.

20 Mr. Barnett is perfectly prepared today to address

21 his involvement in compliance with document requests

22 by the United States Senate. That topic, fair game.

1 And David answered questions and Bob will answer
2 questions. David repeatedly has declined to answer
3 questions about his work product, and Bob will also
4 have to respectfully decline to answer questions
5 about Williams & Connolly's work product. A 1993
6 conversation with Susan Thomases, if it occurred, has
7 nothing to do with subpoena compliance.

8 MR. BARTOLOMUCCI: I think it's clear that
9 the fact of the conversation, if it occurred, could
10 not itself be privileged and, similarly, couldn't be
11 work product. Maybe some mental impression that he
12 developed as a result of the conversation could be,
13 but the fact of the conversation itself, I don't see
14 how you can fit that in either work product or
15 privilege. If he can't even answer a question as
16 simple as that, then I'm definitely going to stop
17 this deposition and go get guidance from above,
18 including, if necessary, a ruling from the Chairman.

19 MR. SUNDERMEYER: Fine. The problem is who
20 we choose to speak with as Williams & Connolly
21 represents its clients in these matters is work
22 product. That's the problem.

1 MR. BARTOLOMUCCI: I think I'm going to go
2 seek some guidance on this, but just so the record is
3 clear, let me ask you the question once again.

4 BY MR. BARTOLOMUCCI:

5 Q Did you have any conversations with Susan
6 Thomases the week of July 20th through 27th, 1993?

7 A Can we confer?

8 MR. SUNDERMEYER: Let me find out if he can
9 even conceivably answer the question. We might save
10 time.

11 (Discussion off the record.)

12 MR. SUNDERMEYER: We cannot answer that
13 kind of question. That's a work product problem.

14 MR. BARTOLOMUCCI: Okay, then. We're going
15 to suspend temporarily while I go seek some
16 guidance. Off the record.

17 (Recess.)

18 BY MR. BARTOLOMUCCI:

19 Q We're back after a fairly lengthy delay. I
20 think I've just asked you the question about whether
21 you talked to Susan Thomases on the week of July 20th
22 to 27th, '93 and upon the advice of Mr. Sundermeyer,

1 you're not going to answer that question.

2 MR. SUNDERMEYER: As posed. We have given
3 you off the record a formulation of the question that
4 we can answer.

5 MR. KRAVITZ: Why don't you say what that
6 formulation was.

7 MR. SUNDERMEYER: I'll be happy to. The
8 formulation of the question that we can answer is the
9 same question with regard to the documents.

10 BY MR. BARTOLOMUCCI:

11 Q During the week of July 20th to 27th, 1993,
12 did you call Ms. Thomases to arrange a meeting at the
13 White House?

14 MR. SUNDERMEYER: That's privileged as
15 phrased. Doesn't go to the documents.

16 BY MR. BARTOLOMUCCI:

17 Q During the week of July 20th to 27th, 1993,
18 did you call Ms. Thomases at all?

19 MR. SUNDERMEYER: That's privileged. Does
20 not go to the documents.

21 MR. KRAVITZ: Mr. Sundermeyer, just so the
22 record is clear, when you say "the documents," which

20

1 documents are you referring to?

2 MR. SUNDERMEYER: The documents that
3 Mr. Barnett addressed as part of his Senate
4 testimony.

5 MR. KRAVITZ: These are the documents that
6 Mr. Barnett picked up in the White House residence on
7 July 27, 1993?

8 MR. SUNDERMEYER: Correct.

9 MR. BARTOLOMUCCI: I think Mr. Kravitz
10 raises that because later we'll be talking about the
11 billing records. We'll call them the Foster
12 documents and the billing records for clarity.

13 MR. SUNDERMEYER: Okay. Assuming that
14 squares with the witness's recollection and proper
15 characterization, and I frankly don't know, but I
16 understand your point. Good point.

17 THE WITNESS: Let me take a second, Chris.

18 MR. BARTOLOMUCCI: Certainly.

19 (Witness conferred with counsel.)

20 BY MR. BARTOLOMUCCI:

21 Q Mr. Barnett, in July of 1993, what was your
22 phone number at Williams & Connolly?

1 A My phone number in July of '93, it was
2 either 202-331-5034 or 202-434-5034. I can't
3 remember exactly when it changed. It was one of
4 those two numbers.

5 MR. SUNDERMEYER: Let's go off the record a
6 minute.

7 (Discussion off the record.)

8 BY MR. BARTOLOMUCCI:

9 Q Would that number be different from your
10 phone number now?

11 A My phone number now is 202-434-5034.

12 Q And at that point it changed from that
13 number to the other number?

14 A Correct.

15 Q But it was one of those two numbers in July
16 of '93?

17 A Correct.

18 Q I'm going to show you a sheath of
19 documents. They're Bates labeled DKS N 028928 through
20 DKS N 029043. As I think you might know, these were
21 produced to us by your partner, David Kendall, on
22 January 5th of this year. You're flipping through

22

1 them now, but I'm going to ask you to take a look at
2 every page just so that when I ask you about the
3 documents, we're agreed that you've examined them
4 sufficiently.

5 A You want me now to look at every page?

6 Q Please.

7 MR. SUNDERMEYER: Take your time. Go ahead
8 and finish that. We will also have to check and make
9 sure that all of the document production numbers are,
10 in fact, printed on each page, because the last time
11 we did this drill they were not.

12 THE WITNESS: You mean these?

13 MR. SUNDERMEYER: Yes, but you can do it or
14 I can do it.

15 MR. BARTOLOMUCCI: These are the actual
16 documents that Mr. Kendall produced to us.

17 MR. SUNDERMEYER: Supposedly the last ones
18 were, too, and the way they were photocopied -- I
19 don't know why. There were pages in the last stack
20 that a representative of the Committee showed
21 Williams & Connolly in the deposition which did not
22 have the document production numbers stamped on all

1 the pages, so I would like to look at the documents
2 and make sure that they're all there, please.

3 MR. BARTOLOMUCCI: Feel free.

4 Can I continue my examination?

5 MR. SUNDERMEYER: No.

6 MR. BARTOLOMUCCI: Or do you want to take
7 the time out and look at the numbers?

8 MR. SUNDERMEYER: I just want to look
9 through the numbers. It won't take but a second.
10 They're all there this time. All of the pages are
11 number stamped this time.

12 BY MR. BARTOLOMUCCI:

13 Q Mr. Barnett, you looked at these documents?

14 A Yes.

15 Q You've had a sufficient chance to look at
16 them?

17 A Yes.

18 Q Have you ever seen these documents or
19 documents similar to them before?

20 A Yes.

21 Q On what occasions?

22 A I've seen them when Senator D'Amato was

1 holding them up on television at a press conference.
2 I've seen pictures of them in various newspapers and
3 magazines. I've seen them being held up by Carolyn
4 Huber when she was testifying. I've seen a Xerox
5 sitting in David Kendall's office. That's all I can
6 think of.

7 Q Did you ever see these documents or
8 documents similar to them prior to January 5th of
9 year?

10 A I can't put an exact date on it, but I
11 certainly did not see them prior to the time that
12 Carolyn Huber's testimony and discovery of them came
13 out. I don't remember what date that was, but I
14 didn't see them before that event, if you will.

15 Q So that we nail this down, Mr. Kendall
16 produced these to us on January 5th, I believe, and I
17 don't remember the exact date that Ms. Huber
18 testified, but it's your testimony that you didn't
19 see these or similar documents prior to their
20 discovery and public --

21 A Certainly not, but I cannot put a date in
22 my head as we sit here what date Carolyn Huber

1 discovered them. I didn't pay that close attention.
2 But prior to her discovery and coming out that she
3 had discovered them, I had never seen them before,
4 that is correct.

5 Q So is it safe to say that you never saw
6 them prior to 1996?

7 A Correct.

8 Q Have you discussed the circumstances
9 surrounding the discovery of these Rose Law Firm
10 billing records with anyone?

11 MR. SUNDERMEYER: As phrased, that is
12 privileged.

13 BY MR. BARTOLOMUCCI:

14 Q Have you ever discussed the circumstances
15 surrounding the discovery of the billing records with
16 Ms. Huber?

17 MR. SUNDERMEYER: Let's consult.

18 (Witness conferred with counsel.)

19 THE WITNESS: No.

20 BY MR. BARTOLOMUCCI:

21 Q That is to say, you never discussed with
22 Carolyn Huber the circumstances surrounding the

1 discovery of the records?

2 A Correct.

3 Q Did you ever discuss the circumstances
4 surrounding the discovery of the records with
5 Mrs. Clinton?

6 MR. SUNDERMEYER: That's privileged.

7 BY MR. BARTOLOMUCCI:

8 Q Do you represent Mrs. Clinton in any legal
9 matters currently?

10 MR. SUNDERMEYER: Bob Barnett -- I'll
11 address that one. Bob Barnett is a partner of
12 Williams & Connolly. Williams & Connolly represents
13 the Clintons. Bob is a partner of the firm and a
14 member of the executive committee so all of the
15 lawyers at Williams & Connolly have an
16 attorney-client relationship with the Clintons.

17 BY MR. BARTOLOMUCCI:

18 Q Do you represent Mrs. Clinton on any legal
19 matters currently?

20 MR. SUNDERMEYER: Don't answer that
21 question any further, Bob.

22 BY MR. BARTOLOMUCCI:

1 Q I believe you testified that you ceased
2 representing the Clintons in the fall of 1993. Am I
3 misinformed?

4 A Again, my testimony is here in the record
5 very specific on a couple of occasions, but I believe
6 it goes to the point Michael is making, which is my
7 position as a member of the firm, a member of the
8 executive committee of the firm.

9 MR. SUNDERMEYER: It's also a
10 misconstruction of the testimony.

11 BY MR. BARTOLOMUCCI:

12 Q But don't read into my question more than
13 is there. My question is simply, did there come a
14 time in the fall of 1993 when you ceased to represent
15 the Clintons?

16 MR. SUNDERMEYER: That has been addressed
17 in the previous deposition. Do you have a cite?

18 THE WITNESS: No, but I can find it. Do
19 you want me to find it?

20 MR. SUNDERMEYER: Do you have a cite so we
21 can get moving?

22 MR. BARTOLOMUCCI: My question didn't ask

1 for a reference -- make any reference to his prior
2 testimony. I am asking for his present recollection
3 about whether in the fall of '93, Mr. Barnett ceased
4 to represent the Clintons.

5 THE WITNESS: Here's what I said on page
6 38. "Although my law firm" -- this is a partial
7 quotation. "Although my law firm would continue the
8 representation, I would not personally do so as to
9 these matters." Then Mr. Ben-Veniste says "and
10 you're" -- and I say "as to these matters."

11 BY MR. BARTOLOMUCCI:

12 Q Would you identify the page you're reading
13 from for our record here.

14 A Page 38 and 39, and at the top of 39,
15 again, I'm skipping --

16 MR. SUNDERMEYER: That's enough. That's
17 enough.

18 THE WITNESS: Okay.

19 BY MR. BARTOLOMUCCI:

20 Q So my question to you is, did there come a
21 time in the fall of 1993 when you ceased representing
22 the Clintons?

1 MR. SUNDERMEYER: Asked and answered.

2 MR. BARTOLOMUCCI: I don't think I've had
3 an answer. I'm asking for your present recollection,
4 not about what you may have testified in our December
5 hearing.

6 MR. SUNDERMEYER: Mr. Barnett -- strike
7 that. Williams & Connolly throughout the entire
8 period has had an attorney-client relationship with
9 the President and Mrs. Clinton. That applies to me,
10 Mr. Barnett, the youngest associate in the firm. So
11 other than what he has already testified to, that is
12 all we are able to say about the attorney-client
13 relationship with the clients.

14 MR. BARTOLOMUCCI: I have to respectfully
15 disagree. In the hearing, he answered the question.
16 So I don't see any reason why he can fail to answer
17 the question now.

18 THE WITNESS: I believe I have answered the
19 question. I told you exactly what I said then and
20 what I said then remains the case today. It's a
21 couple of other places in here, too, but 38 and 39
22 are just the ones I found.

30

1 BY MR. BARTOLOMUCCI:

2 Q Reading from page 38 of your testimony, you
3 said "my wife was assigned to a position where she
4 would be covering the White House and I wished to
5 avoid any appearance of conflict." Is your wife
6 still covering the White House?

7 MR. SUNDERMEYER: Objection; asked and
8 answered. This is utterly outside the scope of this
9 Committee's inquiry. Excuse me. We are not going to
10 do this. We are not going to do it.

11 BY MR. BARTOLOMUCCI:

12 Q Do you represent the Clintons on any
13 matters presently?

14 MR. SUNDERMEYER: Bob Barnett, Mike
15 Sundermeyer, all of the associates at Williams &
16 Connolly represent the Clintons today and have
17 represented the Clintons for years.

18 MR. BARTOLOMUCCI: That's fine. It doesn't
19 matter under the sun whether it is within the scope
20 of your representation. Unless I'm able to find out
21 whether Mr. Barnett is himself representing the
22 Clintons, providing legal services and what they are,

1 I don't know how I'm supposed to know to assess the
2 propriety of your many assertions of the privilege.

3 I don't think this is a question now out of
4 the bounds of the resolution at all. This is a
5 simple background question about whether he is
6 providing legal services to the Clintons. I don't
7 want to get into a debate with you about this
8 anymore.

9 MR. SUNDERMEYER: Fine. That last speech
10 tells me lots about what's going on here. We are not
11 going to identify for this Committee the subject
12 matters of Williams & Connolly's representations of
13 our clients. We're not going to do it.

14 MR. BARTOLOMUCCI: I'm not looking for a
15 recitation of that.

16 MR. SUNDERMEYER: That is exactly what you
17 just said on the record.

18 MR. BARTOLOMUCCI: My question to
19 Mr. Barnett was whether -- strike that. He testified
20 at our public hearing that he ceased to represent the
21 Clintons in the fall of 1993 --

22 MR. KRAVITZ: That's not what he said.

1 MR. SUNDERMEYER: No, that's not what he
2 said at all. In fact, that's really an astonishing
3 assertion given the fact that you just read into the
4 record what he said, and the record speaks for itself
5 quite clearly.

6 BY MR. BARTOLOMUCCI:

7 Q Why don't you tell me how I've
8 mischaracterized your testimony, Mr. Barnett?

9 MR. SUNDERMEYER: You have no obligation to
10 do that. That's not a proper question.

11 BY MR. BARTOLOMUCCI:

12 Q Have you ever discussed the circumstances
13 surrounding the discovery of the billing records with
14 Mr. Kendall?

15 MR. SUNDERMEYER: That's privileged.

16 BY MR. BARTOLOMUCCI:

17 Q When did you have that discussion, if you
18 had one?

19 MR. SUNDERMEYER: That's privileged.

20 BY MR. BARTOLOMUCCI:

21 Q Have you ever been in the book room of the
22 White House?

1 A My best recollection is that I've been in
2 the room that has been described as the book room on
3 two occasions.

4 Q What were those occasions?

5 A Sometime, I believe, in 1993 I was in a
6 room in the residential section of the White House
7 that, in my mind's eye, fits some of the description
8 of the book room that I've read and heard in these
9 hearings, but I can't be sure three years later if it
10 was actually that room.

11 Q You say that was sometime in 1993?

12 A I believe it was sometime in 1993, yes,
13 that's my best recollection, sometime in 1993, but
14 I'm not 100 percent sure.

15 Q Can you put a season to that year?

16 A No, I can't. I can't. I've tried, but I
17 really can't.

18 Q Was it before or after Vincent Foster's
19 suicide?

20 A I don't remember. I don't remember.

21 Q Who were you in the room with, if anyone?

22 A I was in the room -- in this room that I'm

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1 thinking of -- I'm not saying that it was for sure
2 the book room. I want to be clear on that. I was in
3 this room with Carolyn Huber and the President.

4 Q This room that you think was the book room,
5 do you remember seeing any exercise equipment in an
6 adjacent room?

7 A No, I don't remember that, no.

8 MR. SUNDERMEYER: One way or the other.

9 THE WITNESS: No, I don't remember one way
10 or the other, no.

11 BY MR. BARTOLOMUCCI:

12 Q And why were you in the book room in 1993,
13 or what you think was the book room?

14 A I was in this particular room because I was
15 representing Mrs. Kelly, the President's mother, on
16 her book, and we were putting together the photo
17 insert for the book, and we were looking for a couple
18 pictures for the photo insert for the book.

19 Q Were these photos being kept in the book
20 room?

21 A Well, we found them in the book room. I'm
22 not saying it's the book room. Please be careful. I

1 don't know that it was ever -- I want to repeat
2 that.

3 Q Let's see. Have you seen this map before?

4 A I've seen it on television, yes. With
5 respect to this incident, it won't help me. I can
6 tell you that. I cannot remember the geography of
7 where this room was. I just can't.

8 Q Was it on the third floor of the White
9 House?

10 A I can't remember. It was in the
11 residential section, but I can't remember what floor
12 this room was on, the room I'm thinking of.

13 Q Did you have to go by Secret Service guards
14 or be admitted by Secret Service agents to get to
15 where you were going?

16 A Well, I was with the President, so --

17 Q You're sure it was the President?

18 A Yes.

19 Q What was the second occasion on which you
20 think you've been in the book room?

21 A I was there on another occasion, and I was
22 saying hello to a young woman who works for

1 Mrs. Clinton, and it was certainly sometime in 1995,
2 but I don't remember when.

3 Q Now, in this 1995 episode, are you certain
4 that at that time you were in the book room?

5 A No. You didn't ask me that.

6 Q I'm asking you now.

7 A And I'll answer. I was in a room that
8 again, in certain ways, fits the description of the
9 book room which I've heard and read. But in other
10 ways, it doesn't, so I cannot be sure that it was the
11 so-called book room.

12 Q With respect to these two incidents that
13 you've described, were you in the same room? Is this
14 the same room you're describing?

15 A You know, again, in my mind's eye, the
16 rooms looked very different, but it was 2-1/2, three
17 years later, so things could have changed in the
18 rooms. Certain characteristics were the same in my
19 mind. Others were different.

20 Q Can you describe for me what you remember
21 about the rooms?

22 A Which time?

1 Q Both of them. Start with the 1993.

2 A In 1993, I remember a room that had shelves
3 and books and photo albums and a lot of stuff around
4 the floor, memorabilia, pictures, photographs, stuff
5 like that, and it was very messy. It wasn't
6 organized. It was very messy. That's what I
7 remember.

8 Q And we're talking about 1993?

9 A Correct.

10 Q Was there a table, to your recollection?

11 A No, I don't remember a table.

12 Q File cabinets?

13 A In '93, I don't remember file cabinets,
14 no. I don't remember file cabinets, no.

15 Q Describe for me the room as you remember it
16 in 1995.

17 A 1995, I remember a room again with
18 bookshelves and books, and I remember there being a
19 computer, and I remember there -- I'm fairly sure I
20 remember there being file cabinets, and the one thing
21 that throws me off is I've heard in the various
22 testimony about a table. I do not remember a table.

1 That's what I remember.

2 Q Is it your testimony that in 1995, you were
3 in this room with a woman who is an aide to
4 Mrs. Clinton?

5 A In that room, at the time I was in that
6 room, was this young woman and a couple other women
7 and maybe Maggie Williams, but I'm not sure about
8 that. Maybe Capricia Marshall, I'm not sure about
9 that. That's my best memory.

10 Q Your memory is that several people were
11 there?

12 A Yeah. Besides me, there were at least a
13 minimum of three others, maximum of five others. I
14 take that back. Two to five, two to five, I would
15 say. I just don't remember that well.

16 Q Can you be more precise about the date that
17 you were in the book room?

18 A No, I can't. I've tried, and I cannot.

19 Q But it was last year?

20 A I'm sure it was '95, but I just don't
21 remember when.

22 Q Do you remember if it was hot out, cold

1 out, anything like that?

2 A No, I don't remember.

3 Q What was the reason for which you were in
4 the book room in 1995?

5 A As I said, I was saying hello to this woman
6 who I had talked to and knew of but had never met,
7 and I was saying hello to her.

8 Q Does that mean you came in and said hello
9 and left?

10 A No. I was on my way out and said hello to
11 her. It was very quick and informal.

12 Q You were on your way out of the White
13 House?

14 A Correct.

15 Q So you weren't gathering in that room for a
16 meeting?

17 A No, no.

18 Q Prior to this year -- strike that.

19 At any time, did you attempt to gain an
20 understanding of the amount of work that Mrs. Clinton
21 did at the Rose Law Firm for Madison Guaranty?

22 MR. SUNDERMEYER: That's privileged.

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1 THE WITNESS: Do you want to confer for a
2 minute?

3 MR. SUNDERMEYER: Yes, we can confer.

4 THE WITNESS: Do you mind?

5 MR. BARTOLOMUCCI: Please.

6 (Witness conferred with counsel.)

7 MR. SUNDERMEYER: It's privileged, if he
8 did anything. I'm not saying that he did, but the
9 topic is privileged because it seeks the work product
10 of Williams & Connolly.

11 BY MR. BARTOLOMUCCI:

12 Q At any time, did you attempt to gain an
13 understanding or information about the Rose Law
14 Firm's representation of Madison Guaranty?

15 MR. SUNDERMEYER: That's privileged.

16 BY MR. BARTOLOMUCCI:

17 Q At any time, did you have conversations
18 with people about Hillary Clinton's representation of
19 Madison Guaranty while at the Rose Law Firm?

20 MR. SUNDERMEYER: Again, Williams &
21 Connolly's interaction with that subject matter is
22 privileged.

1 BY MR. BARTOLOMUCCI:

2 Q Prior to their discovery in January of this
3 year, did you undertake any efforts to find billing
4 records from the Rose Law Firm relating to the
5 representation of Madison Guaranty?

6 MR. SUNDERMEYER: You may answer that.

7 THE WITNESS: No.

8 BY MR. BARTOLOMUCCI:

9 Q Did you ever talk to Vincent Foster about
10 the work that Hillary Clinton did at the Rose Law
11 Firm?

12 MR. SUNDERMEYER: That's privileged.

13 BY MR. BARTOLOMUCCI:

14 Q Did you ever talk to Vincent Foster about
15 the Rose Law Firm's representation of Madison
16 Guaranty?

17 MR. SUNDERMEYER: That's privileged.

18 BY MR. BARTOLOMUCCI:

19 Q Other than these billing records -- I'm
20 referring to the ones that begin DKS N 28928 -- have
21 you seen any documents which reflect the amount of
22 work that Hillary Clinton did at the Rose Law Firm on

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1 behalf of Madison Guaranty?

2 MR. SUNDERMEYER: You can answer that.

3 THE WITNESS: No.

4 BY MR. BARTOLOMUCCI:

5 Q Other than these documents, have you seen
6 any other documents which reflect the extent of the
7 Rose Law Firm's representation of Madison Guaranty?

8 A Well, I've seen newspaper articles about
9 it. If you call that a document, I've seen charts
10 and newspaper articles and that kind of thing.

11 Q Let's restrict it to the time we're talking
12 about, the time prior to the discovery of these
13 records and excluding any newspaper accounts.

14 A Press accounts?

15 Q Sure, press accounts more broadly. Have
16 you seen any documents that reflect the work --
17 strike that.

18 Have you seen any documents that reflect
19 the extent of the Rose Law Firm's representation of
20 Madison Guaranty?

21 MR. SUNDERMEYER: Would you read the
22 question back, please.

1 (The reporter read the record as requested.)

2 MR. SUNDERMEYER: Go ahead.

3 THE WITNESS: Excluding magazine articles
4 and press accounts, no.

5 BY MR. BARTOLOMUCCI:

6 Q Prior to this year, did you have any -- did
7 you have any understanding or awareness of the fact
8 that Mrs. Clinton had billed approximately 60 hours
9 while at the Rose Law Firm on Madison Guaranty
10 related matters?

11 MR. SUNDERMEYER: I'm sorry. Could you
12 read the question back.

13 (The reporter read the record as requested.)

14 MR. SUNDERMEYER: That's privileged because
15 it is -- that's privileged. It was with regard to a
16 Williams & Connolly lawyer.

17 BY MR. BARTOLOMUCCI:

18 Q Prior to this year, did you have any
19 understanding about the amount of work that
20 Mrs. Clinton had billed in connection with Madison
21 Guaranty work while she was at the Rose Law Firm?

22 MR. SUNDERMEYER: With regard to a Williams

1 & Connolly lawyer, that's privileged.

2 BY MR. BARTOLOMUCCI:

3 Q Prior to this year, did you have any
4 awareness of the fact that the Rose Law Firm billed
5 Madison Guaranty for approximately \$21,000 in
6 connection with Rose's representation of Madison?

7 MR. SUNDERMEYER: With regard to Williams &
8 Connolly lawyer, that's privileged.

9 BY MR. BARTOLOMUCCI:

10 Q Prior to this year, did you have any
11 understanding about the extent to which the Rose Law
12 Firm had billed Madison Guaranty for legal services?

13 MR. SUNDERMEYER: Again, with regard to a
14 Williams & Connolly lawyer, that is privileged.

15 BY MR. BARTOLOMUCCI:

16 Q Prior to this year, did you know that
17 Hillary Rodham Clinton had a telephone conference
18 with Beverly Bassett Schaffer?

19 MR. SUNDERMEYER: With regard to a Williams
20 & Connolly lawyer, that's privileged.

21 (Witness conferred with counsel.)

22 BY MR. BARTOLOMUCCI:

1 Q Prior to this year, did you have any
2 awareness of Mrs. Clinton having prepared a real
3 estate option between Seth Ward and Madison
4 Guaranty?

5 MR. KRAVITZ: Can I just ask a question for
6 clarification before you give any indication as to
7 whether that calls for privileged information or
8 not? Am I correct in understanding that your
9 question means to exclude information that
10 Mr. Barnett may have gotten from the press? Because
11 I think, for example -- I can't speak for
12 Mr. Barnett, but I would imagine that even with
13 regard to the issue of whether he had any
14 understanding whether, 1996, that Mrs. Clinton may or
15 may not have had a conversation with Beverly Bassett
16 Schaffer in 1985, I would imagine that Mr. Barnett
17 may have had some understanding about that from the
18 press, clearly independent of the representation of
19 the Clintons by Williams & Connolly. I just think
20 it's important that the record is clear as to what
21 your question includes, and what it excludes.

22 MR. BARTOLOMUCCI: I think we've gone

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1 backwards one question, and I guess now we need to
2 clear up the record.

3 BY MR. BARTOLOMUCCI:

4 Q Prior to this year, did you have any
5 understanding gleaned from media accounts about a
6 telephone conference between Mrs. Clinton and Beverly
7 Bassett Schaffer?

8 MR. KRAVITZ: I'm not sure that has any
9 relevance to anything, but I just thought --

10 MR. BARTOLOMUCCI: You raised it. That's
11 the only reason I posed the question.

12 MR. KRAVITZ: I raised it because I didn't
13 think that point was relevant. I wanted to make sure
14 that the assertion of privilege was made with the
15 proper understanding of the scope of your question.

16 MR. SUNDERMEYER: The bottom line here is
17 Williams & Connolly's awareness, what is in the minds
18 of Williams & Connolly lawyers about this matter, is
19 privileged, period, end of discussion, with all due
20 respect. And I must say I'm surprised, given the
21 agreement that Senator D'Amato and Senator Sarbanes
22 reached, that I am hearing these questions.

1 MR. BARTOLOMUCCI: Well, it's my
2 understanding that this agreement only concerned
3 matters related to the August 1995 period. It's
4 further my understanding that the agreement only
5 pertained to questions that would be posed at a
6 public hearing and not in a confidential deposition.
7 Regardless, I'm going to continue to ask questions in
8 this vein.

9 BY MR. BARTOLOMUCCI:

10 Q I think the last question I asked before
11 Neil brought up the clarifying matter was whether
12 prior to this year you had any understanding as to
13 whether Mrs. Clinton had prepared a real estate
14 option involving Seth Ward and Madison Guaranty?

15 MR. SUNDERMEYER: With regard to a Williams
16 & Connolly lawyer, that's privileged.

17 THE WITNESS: Can we break for one second,
18 Chris?

19 MR. BARTOLOMUCCI: Of course.

20 (Witness conferred with counsel.)

21 BY MR. BARTOLOMUCCI:

22 Q Do you need the question read back to you?

1 MR. SUNDERMEYER: That question was
2 responded to, wasn't it?

3 (The reporter read the record as requested.)

4 MR. BARTOLOMUCCI: Okay, my mistake.

5 BY MR. BARTOLOMUCCI:

6 Q This is a document numbered S 20758. Have
7 you ever seen this before?

8 A No. Can I look at it for a minute,
9 please?

10 Q Sure. Take as long as you want. So your
11 testimony is you haven't seen it before?

12 A No, I have not seen it before.

13 Q This is a document numbered S 0760. Have
14 you ever seen that one before. They're different,
15 although facially they look similar.

16 A Just to save time, can you tell me the
17 difference, other than the date?

18 Q Other than the date, I can't run down for
19 you all the differences, if there are any.

20 A I have not seen this second document
21 before.

22 Q Do you have any understanding as to who the

1 Whitewater Group would be? Both these documents
2 refer to the Whitewater Group.

3 MR. SUNDERMEYER: That question posed to a
4 Williams & Connolly lawyer is privileged.

5 BY MR. BARTOLOMUCCI:

6 Q This is a document numbered DKS N 28346.
7 Have you ever seen this before?

8 A Can you give me some context of what it is
9 or where it came from or anything?

10 Q I can tell you that it was produced to us
11 by Williams & Connolly.

12 A I know that. What is it?

13 Q At this point, I'm just interested to know
14 whether you recognize it.

15 MR. SUNDERMEYER: Take your time for a
16 moment, Bob. Read the document, and then we'll
17 figure out where we go from there.

18 MR. BARTOLOMUCCI: What's the number on the
19 document?

20 THE WITNESS: 28346.

21 MR. SUNDERMEYER: DKS N 028346.

22 THE WITNESS: I have no memory of ever

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1 seeing this document before, no.

2 BY MR. BARTOLOMUCCI:

3 Q Do you see the handwritten notations on the
4 document? I think there are others on the second
5 page.

6 A Yes, I do.

7 Q Do you recognize the handwriting?

8 A No, I do not.

9 Q To the best of your recollection, were you
10 in the White House in August of 1995?

11 A I don't, sitting here, remember being in
12 the White House in August of 1995, but I know that --
13 I've been told that I'm on a log, so I have every
14 reason to believe I was in the White House in August
15 of '95. But do I sit here right now and absolutely
16 remember it? No. But I have no reason to deny it,
17 and I don't deny it.

18 Q Do you have any memory of being in the
19 White House in the fall of 1995?

20 A I have memories of being in the White House
21 in the fall of 1995, yes.

22 Q I'm going to show you a document numbered

1 S 20321.

2 A Yes.

3 MR. SUNDERMEYER: Is there a date
4 associated with that one?

5 THE WITNESS: August 11.

6 BY MR. BARTOLOMUCCI:

7 Q August 11, and I'll represent to you that's
8 a 1995 date. This document seems to reflect that on
9 2:20, appears to be in the afternoon, you and Maggie
10 Williams went to the second floor of the White
11 House.

12 First of all, do you have any memory, now
13 that you've seen this document, of being in the White
14 House on August 11, 1995?

15 A I think the same answer I gave you before.
16 I have no doubt I was, but as I sit here today, do I
17 have a vivid memory of being here on that specific
18 date? No. But I certainly understand that I was.

19 Q Do you have any memory in the late summer
20 or early fall of 1995 of being with Margaret Williams
21 in the White House?

22 A Yes.

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1 Q Do you remember one occasion, or were there
2 multiple occasions when you met --

3 A What period of time?

4 Q That same period. I want to encompass
5 August, but I want to try to capture your
6 recollections in that general time period.

7 A If I could, just to save time, I don't
8 remember the exact date. I remember being there. I
9 just don't remember the exact date. That's the only
10 point I was making, so you don't have to --

11 Q I was just trying to see if there were
12 multiple times you would have been there.

13 A What period of time?

14 Q Around this August 11th period.

15 A Be specific now. August 10th, August 11th,
16 August 12th? What are you talking about?

17 Q Let's say August.

18 A I am sure that I was in the White House
19 sometime during August, yes. I just can't remember
20 the exact date. That's all.

21 Q I think my question, though, was during
22 August of '95, were you there once, or were you there

1 on multiple occasions, to your memory.

2 A All I remember is once.

3 Q You remember being there once in August?

4 A I remember being there once, but I don't
5 want to say I wasn't there twice. I only remember
6 being there once.

7 Q And you remember being there in August of
8 '95 and seeing Ms. Williams?

9 A I do.

10 Q And do you have any reason to think that
11 you weren't there at around 2:20 on Friday, August
12 11, '95?

13 A I told you I don't remember the exact date,
14 and I certainly don't remember the exact time, but I
15 have no reason to quarrel with this. I'm giving you
16 my memory.

17 Q This record also reflects that at 2:45,
18 several people traveled to the second floor, which is
19 the destination attached to your movement also. And
20 it lists the President, Vice President, Secretary
21 Christopher, Erskine Bowles, Pat Griffin. Do you
22 remember seeing any of those people on the occasion

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1 that you recollect?

2 A No, I don't remember seeing them on that
3 occasion, no.

4 Q It lists Leon Panetta as having gone to the
5 second floor at 2:55. Do you remember seeing Leon
6 Panetta on that occasion?

7 A I don't, as I sit here today, remember
8 seeing Leon Panetta on that occasion, no.

9 Q Do you have any memory as to how long you
10 were in the White House on that occasion?

11 A This document says one hour and 10 minutes,
12 but if you asked me what my memory is, I would have
13 said maybe 20, 30 minutes. That's what I would have
14 said if I hadn't seen this log, but this log says
15 longer.

16 Q Your memory may be correct. I'll show you
17 another document, which is labeled S 20328. This is
18 a movement log, which has you going up at 14:20,
19 which is 2:20. That matches the first document, but
20 then it shows you coming down at 15:00 or 3:00?

21 A That is certainly more in conjunction with
22 my memory as I sit here, and I had not, of course,

1 seen this before you showed it to me.

2 MR. KRAVITZ: One thing that actually may
3 be helpful in refreshing your memory, to the extent
4 it needs any, the first document, S 20321, is a
5 usher's log which testimony said is kept informally
6 and which the ushers say is less likely to be
7 accurate than S 02328, which is a Secret Service log,
8 which is kept in the regular course of business and
9 is a formal record.

10 BY MR. BARTOLOMUCCI:

11 Q When you exited the second floor on that
12 occasion, do you remember Maggie Williams going with
13 you when you went back downstairs?

14 A I don't remember if she went with me or
15 not. I don't remember. I don't remember. I can't
16 be sure.

17 Q Other than Maggie Williams, who did you
18 meet with when you were in the White House in August
19 of '95?

20 A I saw there at that time in August, my
21 partner, Jim Fuller, I believe, Maggie Williams,
22 Mrs. Clinton. I may have seen some other people, but

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1 I don't remember specifically beyond that.

2 Q Was there a meeting that you were going to
3 attend?

4 MR. SUNDERMEYER: That particular question
5 is fine.

6 THE WITNESS: Yes.

7 BY MR. BARTOLOMUCCI:

8 Q And who were you meeting with?

9 A In that gathering were Mrs. Clinton, Jim
10 Fuller, Maggie Williams, but I can't say that
11 everybody was there all the time.

12 Q I understand that Mr. Fuller is a partner
13 at Williams & Connolly.

14 A Correct.

15 Q Does he do legal work for the Clintons?

16 MR. SUNDERMEYER: Objection. That's
17 privileged.

18 BY MR. BARTOLOMUCCI:

19 Q In what areas does Mr. Fuller practice law?

20 MR. SUNDERMEYER: That's okay.

21 THE WITNESS: Mr. Fuller does tax law. He
22 does estate law. He does corporate law, business

1 law, transactional law, those fields.

2 BY MR. BARTOLOMUCCI:

3 Q And he was there for the same meeting that
4 you were there for?

5 A He was with me part or all of that time. I
6 just can't remember exactly.

7 Q And was your specific purpose in coming to
8 the White House that day to attend this meeting?

9 A I believe so. I believe I was there to
10 meet.

11 Q What was the meeting about?

12 MR. SUNDERMEYER: That's privileged.

13 BY MR. BARTOLOMUCCI:

14 Q Was the meeting held in connection with the
15 provision of legal services to any client?

16 MR. SUNDERMEYER: We're not going to get
17 into that. That's privileged.

18 MR. BARTOLOMUCCI: I don't see how it can
19 be privileged if he wasn't there to perform legal
20 services.

21 BY MR. BARTOLOMUCCI:

22 Q What topics did you discuss at the meeting?

1 MR. SUNDERMEYER: That's privileged.

2 BY MR. BARTOLOMUCCI:

3 Q Did the meeting have anything to do with
4 Mrs. Clinton's book, "It Takes a Village"?

5 MR. SUNDERMEYER: That's privileged.

6 BY MR. BARTOLOMUCCI:

7 Q Where was the meeting held within the White
8 House?

9 A My best recollection is -- and I'm not 100
10 percent sure of this -- that it was in a room where
11 the President has a desk and I think they call it --
12 I think they call it the treaty room. It has a
13 coffee table and has a couch. It has a big wood
14 desk. It has some books on the wall. It has some
15 big paintings. It has a nice Oriental rug. That's
16 my best recollection, but I can't be 100 percent sure
17 of that. That's my best recollection.

18 Q Is that on the second or third floor?

19 A That room I'm talking about is, I believe,
20 on the second floor.

21 Q And just so I have this right --

22 A Do you have that map there?

1 Q Sure.

2 A Is this the second floor?

3 Q I believe this is the third floor. I don't
4 have the second floor.

5 A You've got to give me the second floor.

6 Q I don't have the second floor, so we'll
7 just have to --

8 A No, no. That's all right.

9 Q So I think the question is do you remember
10 if it was on the second or third floor?

11 A My best recollection is it was on the
12 second floor, but I'm not 100 percent of that. I'm
13 really not.

14 Q Just so I have this right, in attendance at
15 the meeting were you, your partner, Mr. Fuller,
16 Hillary Clinton, Margaret Williams --

17 A But I said not everybody was there for the
18 whole thing. Some people were there for part of it,
19 and some people were there for all of it.

20 Q That's everyone who was there at least some
21 of the time?

22 A My recollection is there were people in and

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1 out with messages and things, but I just really --
2 it's six months ago. I don't remember that vividly,
3 but I do remember those people.

4 Q Did any of the participants in the meeting
5 make phone calls during the meeting?

6 A That's possible. That's possible. It's
7 certainly possible that people made phone calls
8 during the meeting, yes.

9 Q I want to direct your attention to January
10 of 1994.

11 A January of '94?

12 Q January of '94. During that month, did you
13 ever speak with Mrs. Clinton about the possibility of
14 a special prosecutor or independent counsel being
15 appointed to look into the Whitewater matter?

16 MR. SUNDERMEYER: To a Williams & Connolly
17 lawyer, that's privileged.

18 BY MR. BARTOLOMUCCI:

19 Q Did you talk to Mrs. Clinton at all in
20 January of 1994?

21 MR. SUNDERMEYER: To a Williams & Connolly
22 lawyer, that's privileged.

1 BY MR. BARTOLOMUCCI:

2 Q Who is Mike Berman?

3 A Mike Berman, he is a lobbyist with a firm
4 called the Duberstein Group in Washington, D.C. What
5 more do you want to know?

6 Q Did you ever have occasion to meet with
7 Mr. Berman and Webster Hubbell?

8 A Oh, yes, sure. Many times. We're friends.

9 Q So if I were to tell you that we have a
10 record indicating that in October of 1993, the three
11 of you were together, do you have any memory of such
12 a meeting in October of 1993?

13 THE WITNESS: Can we go off the record for
14 a minute?

15 MR. BARTOLOMUCCI: Sure.

16 (Discussion off the record.)

17 BY MR. BARTOLOMUCCI:

18 Q Do you have any recollection of meeting
19 with Mr. Berman and Mr. Hubbell in October of 1993?

20 A I don't have any recollection of that, but
21 I cannot rule it out.

22 Q Off the record you were indicating to me

1 that Mr. Berman is a friend of yours, a social
2 acquaintance.

3 A We're off the record now?

4 Q No, I meant that off the record you said
5 that.

6 A Oh.

7 Q When we were off the record, you told me
8 that you and Mr. Berman are friends. If you had a
9 meeting with Mr. Berman and Mr. Hubbell, are you
10 telling me it was probably a social gathering?

11 A Well, I hate the word "meeting."

12 MR. SUNDERMEYER: Whoa. Objection. We're
13 not going to speculate about if you had a meeting,
14 what it would have been. That's not a proper
15 question.

16 BY MR. BARTOLOMUCCI:

17 Q Did you have any business or work-related
18 reason to meet with Mr. Berman and Mr. Hubbell in
19 October of '93?

20 MR. SUNDERMEYER: To a Williams & Connolly
21 lawyer, that's privileged as phrased.

22 BY MR. BARTOLOMUCCI:

1 Q In October of '93, were you representing
2 Mr. Berman in connection with any matters?

3 A Representing Mr. Berman?

4 Q Yes.

5 A No.

6 Q Do you have any memory of telephoning
7 Webster Hubbell in the early part of November 1993?

8 A As we sit here today, I have no such
9 memory, but I can't rule it out.

10 Q Well, documents in the Committee's
11 possession seem to indicate that you called
12 Mr. Hubbell four times on November the 2nd, 1993. Do
13 you have any memory of calling Mr. Hubbell on
14 November 2nd, 1993?

15 A I certainly, as we sit here today, don't
16 remember doing that, but I'm not saying I didn't. I
17 don't remember who I called in November of '93. I
18 really don't.

19 Q Do you remember there being any occasion on
20 which you called Mr. Hubbell four times within the
21 same day?

22 A No, I don't remember any such occasion, but

1 again, I can't rule it out because I might not have
2 reached him or something.

3 MR. KRAVITZ: Chris, do the phone messages
4 indicate what the subject of the call might be?

5 MR. BARTOLOMUCCI: No, which is actually
6 what I'm interested in.

7 BY MR. BARTOLOMUCCI:

8 Q Do you have any idea why you would have
9 been calling Mr. Hubbell in the first part of
0 November 1993?

1 MR. SUNDERMEYER: To a Williams & Connolly
2 lawyer, that's privileged.

3 BY MR. BARTOLOMUCCI:

4 Q Did you ever have occasion to call
5 Mr. Hubbell in connection with Whitewater matters?

6 MR. SUNDERMEYER: To a Williams & Connolly
7 lawyer, that's privileged.

8 BY MR. BARTOLOMUCCI:

9 Q Did you ever discuss Whitewater-related
0 documents with Mr. Hubbell?

1 MR. SUNDERMEYER: It is permissible for the
2 witness to testify about whether he ever spoke with

1 Mr. Hubbell about the existence, whereabouts or
2 search for Whitewater-related documents. He can
3 certainly answer the question to that extent.

4 BY MR. BARTOLOMUCCI:

5 Q Okay. Have you ever spoken with
6 Mr. Hubbell about the existence, whereabouts or
7 search for Whitewater-related documents?

8 MR. SUNDERMEYER: Let me think about that
9 again a minute.

10 MR. BARTOLOMUCCI: It was your question.

11 MR. SUNDERMEYER: Yes. I'm trying to
12 reconstruct the --

13 MR. BARTOLOMUCCI: Are you objecting to
14 your own question?

15 MR. SUNDERMEYER: Yes. I'm trying to
16 determine whether or not it is appropriately
17 privileged or not. Let me consult with the witness
18 on that question.

19 MR. BARTOLOMUCCI: Sure.

20 (Witness conferred with counsel.)

21 MR. SUNDERMEYER: He can respond to that.

22 MR. BARTOLOMUCCI: Can you read back the

1 last question.

2 (The reporter read the record as requested.)

3 THE WITNESS: I have, as I sit here, no
4 recollection of talking with Mr. Hubbell about those
5 things, but I've been told that he testified in one
6 of your hearings that he had a talk with me about
7 wanting to meet with me about some issues and
8 possibly documents and that I said that I was
9 transitioning out of these matters and that he should
10 talk to David Kendall, and I cannot deny that that
11 may have happened. I have no recollection of that
12 happening, but I've been told that he has so
13 testified, and I don't deny that it happened. I just
14 don't remember.

15 BY MR. BARTOLOMUCCI:

16 Q You don't have a recollection of having
17 this conversation?

18 A Other than by third parties telling me that
19 he has so testified, I don't personally, in my mind,
20 remember having that conversation, no.

21 Q And you never met with Mr. Hubbell with
22 respect to Whitewater documents?

1 A I have no recollection of having a meeting
2 with Mr. Hubbell about Whitewater-related documents,
3 no.

4 Q And just so we nail down the time that this
5 occurred, if it occurred, when were you transitioning
6 out of Whitewater?

7 A Fall of -- no, I wasn't transitioning out
8 of Whitewater, no, no. I was transitioning out of
9 these -- okay. We have to step back. When did
10 "Whitewater" sort of become a public issue? You
11 have to help me with that timing.

12 MR. KRAVITZ: Well, I suppose it first
13 became a public issue in March of 1992.

14 THE WITNESS: Can we go off the record for
15 a minute? Is that all right?

16 MR. BARTOLOMUCCI: Sure.

17 (Discussion off the record.)

18 BY MR. BARTOLOMUCCI:

19 Q You testified according to this account of
20 a conversation you had with Mr. Hubbell --

21 A No. Someone told me that he had testified
22 what I described.

1 Q An account.

2 A An account. I don't remember what account
3 it was.

4 Q You said according to this account --

5 A I referred him to David Kendall.

6 Q And said you were transitioning out of
7 these matters?

8 A Right.

9 Q And there was a time, wasn't there, when
10 you transitioned out of these matters?

11 A Yes. I've testified in December as to all
12 that, yes.

13 Q I'm just trying to pin down exactly when
14 this conversation with Mr. Hubbell took place, if it
15 took place?

16 A Please be careful. I don't remember this
17 conversation. If you can give me Mr. Hubbell's
18 testimony, maybe he put a date on it that would be
19 helpful, but I don't remember this conversation.

20 Q I understand that. I'm just trying to see
21 if you can help me more precisely as to when this
22 transition occurred.

1 A I can't help you as to the conversation,
2 and I told you the fall of '93.

3 Q Do you think it would have been before
4 November 2nd?

5 A I don't remember it, so how am I going to
6 tell you if it was before or after? I don't
7 remember. But if you look at Hubbell's testimony,
8 maybe he has a time on it. I don't remember this
9 conversation other than as recounted to me by third
10 parties who heard his testimony about it.

11 Q I take it you're aware of the November 5,
12 '93 meeting between White House officials and
13 Williams & Connolly attorneys to discuss Whitewater?

14 A This is which meeting now?

15 Q November 5, 1993, the one at which
16 Mr. Kennedy took notes which were eventually produced
17 to the Committee.

18 A I'm aware of that. I've certainly heard
19 about that meeting.

20 Q Were these calls you made to Mr. Hubbell on
21 November 2, 1993, could they have been related to
22 that meeting, the November 5th meeting?

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1 MR. SUNDERMEYER: Object to the form.
2 Calls for speculation. He's already said he doesn't
3 remember the calls.

4 BY MR. BARTOLOMUCCI:

5 Q I was trying to see if the existence of the
6 November 5th meeting refreshes your memory for the
7 purposes of the calls.

8 A Valid point. It does not refresh my memory
9 as to those calls, no.

10 Q Did you ever talk to Mr. Hubbell about
11 anything related to that meeting?

12 MR. SUNDERMEYER: What meeting?

13 MR. BARTOLOMUCCI: The November 5th
14 meeting.

15 MR. SUNDERMEYER: That topic is beyond the
16 search for or existence of documents, and it's
17 privileged.

18 BY MR. BARTOLOMUCCI:

19 Q We have from Mr. Hubbell's calendar an
20 indication that you met with Mr. Hubbell and
21 Mr. Kendall on November 17, 1993. Do you have any
22 memory of such a meeting?

1 A No, I have no memory of such a meeting.

2 November -- what was it?

3 Q November 17, 1993. Let's step back. Do
4 you remember any meetings --

5 A Can we hold on for one second?

6 Q Sure.

7 (Witness conferred with counsel.)

8 THE WITNESS: I don't have a memory of that
9 November 17th meeting, no.

10 BY MR. BARTOLOMUCCI:

11 Q Have you consulted any of your own records
12 to determine whether or not you had such a meeting?

13 MR. SUNDERMEYER: That's privileged.

14 BY MR. BARTOLOMUCCI:

15 Q Can you think of any non-Whitewater-related
16 reason why you would meet with Mr. Hubbell and
17 Mr. Kendall in November of '93?

18 MR. SUNDERMEYER: That's privileged for any
19 Williams & Connolly lawyer.

20 BY MR. BARTOLOMUCCI:

21 Q If you had met with Mr. Kendall and
22 Mr. Hubbell in November of '93, could that have been

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1 simply a social meeting?

2 MR. SUNDERMEYER: Objection to the form.
3 If we're going to speculate about what the meeting is
4 going to be about, forget it.

5 MR. BARTOLOMUCCI: I think it's not simple
6 speculation. Mr. Barnett has relationships with
7 Mr. Kendall and Mr. Hubbell, and I'm sure he can give
8 more than just simple speculation as to what the
9 purpose of a meeting might be since we know --

10 MR. SUNDERMEYER: There's a line here. The
11 line is it's privileged or it's utterly impertinent,
12 to use the language of the statute. I like
13 impertinent. It has to be pertinent.

14 BY MR. BARTOLOMUCCI:

15 Q This is all very diverting, but your
16 testimony is you don't have any memory of a meeting
17 between you and Mr. Kendall and Mr. Hubbell on
18 November 17, 1993?

19 A I don't. I do not remember such a meeting
20 as we sit here today, no. I do not remember it.

21 Q Do you have any memory on that date of
22 being on a conference call with those same parties?

1 A No, I don't have any memory of that, no.
2 But again, these things, I want to be clear, I can't
3 rule these things out. Three years ago, did I have a
4 talk with somebody on the phone who's a friend of
5 mine, I can't remember that. I really don't know
6 that. I don't think you would either. If I asked
7 you who you talked to on November 1993, I'll bet you
8 would remember. You're probably smarter than me, and
9 you're younger than me, maybe you would, but I don't
10 remember those kind of details.

11 Q Do you remember placing a call to
12 Mr. Hubbell on November 22, 1993?

13 A As we sit here today, no, but I can't rule
14 it out. Hubbell is a friend of mine, so I might well
15 have talked to him. I don't remember.

16 MR. KRAVITZ: Just so you're not misled, my
17 understanding is that the basis for these questions
18 are message slips of Mr. Hubbell's, so there may be
19 some indication that you called and left a message on
20 that day, but I don't think there's any evidence in
21 the record --

22 THE WITNESS: If you can show me those

1 message slips, maybe they said "subject" or "re:
2 dinner" or "re: going to movies" or whatever. That
3 would be helpful, but as we sit here today, three
4 years later --

5 BY MR. BARTOLOMUCCI:

6 Q If it did that, I wouldn't be asking you
7 about it.

8 A You have a log there. If you have them,
9 I'd like to see them, and I'd be happy to respond.

10 Q If you talked to or placed a call to
11 Mr. Hubbell on November 22, '93, would that refresh
12 your memory at all about when this transition out of
13 Whitewater matters occurred?

14 A No.

15 Q So then, is it -- it's possible that you
16 were still doing Whitewater matters in November of
17 '93?

18 MR. SUNDERMEYER: Objection. It's
19 privileged and on its face calls for speculation.

20 MR. BARTOLOMUCCI: He's already testified
21 that he transitioned or, whatever word you want to
22 use, in the fall of '93. I can hardly see how you

1 can object to me trying to narrow down the time of
2 this transition.

3 MR. SUNDERMEYER: You've asked the question
4 in an improper form. We're not going to sit here all
5 day long and guess about what the possibilities are.
6 It's not a proper question. If you want to ask what
7 his recollection is, that is what you're entitled to
8 ask.

9 MR. BARTOLOMUCCI: I have, and I was trying
10 to see if this record would refresh his memory.

11 THE WITNESS: It does not help my
12 recollection. No, it does not.

13 BY MR. BARTOLOMUCCI:

14 Q Would you have any non-Whitewater reason to
15 call Mr. Hubbell in late November 1993?

16 MR. SUNDERMEYER: How is that pertinent to
17 the Senate's inquiry? I don't understand this.

18 BY MR. BARTOLOMUCCI:

19 Q You can answer.

20 MR. KRAVITZ: He's already testified that
21 they were friends.

22 MR. SUNDERMEYER: That particular question

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1 calls for a yes or no answer. That you can answer.

2 THE WITNESS: Yes.

3 BY MR. BARTOLOMUCCI:

4 Q What would those non-Whitewater matters be?

5 MR. SUNDERMEYER: That's privileged or
6 completely outside the scope, one or the other, or
7 both actually.

8 BY MR. BARTOLOMUCCI:

9 Q I'm going to show you some documents
10 labeled S 20532 through S 20544, I think they run
11 continuously between those numbers, and ask you to
12 look at those and tell me if you've ever seen them
13 before.

14 MR. KRAVITZ: What are the numbers on those
15 again?

16 THE WITNESS: S 020532 through 544. What's
17 the question? Have I ever seen this before?

18 BY MR. BARTOLOMUCCI:

19 Q Have you ever seen any of those documents
20 before.

21 (Witness conferred with counsel.)

22 A I have no recollection of ever seeing these

1 documents before, no.

2 Q I just have another question or two for
3 you, and then I'll be finished.

4 Returning to the matter of the Rose Law
5 Firm billing records that we were looking at and
6 discussing, I just wanted to make sure I've phrased
7 the proper question.

8 Prior to January 5, 1996, did you have --

9 A May I stop you for a minute? Please don't
10 pin it on 5th. Do it like you did, prior to this
11 year, okay?

12 Q That's fine. Prior to this year, did you
13 have any knowledge as to the location of these
14 records?

15 A No.

16 Q And prior to this year, you had never seen
17 them?

18 A No.

19 Q Prior to this year, did you have any
20 understanding that someone else knew where the
21 records were?

22 A Hit me with that one again. Say it again.

1 THE WITNESS: Read it back.

2 MR. BARTOLOMUCCI: Go ahead. Read it
3 back.

4 (The reporter read the record as requested.)

5 THE WITNESS: I don't know how to answer
6 that. I'm sure somebody knew where the records were.

7 MR. SUNDERMEYER: No, no. The question is
8 prior to this year, did you have an understanding
9 that somebody else knew where they were?

10 THE WITNESS: No.

11 MR. BARTOLOMUCCI: I think that's all I
12 have for you. Mr. Kravitz.

13 MR. KRAVITZ: I actually have two
14 questions.

15 EXAMINATION

16 BY MR. KRAVITZ:

17 Q Mr. Barnett, you testified about one
18 occasion in August 1995 in which you attended a
19 meeting in the White House residence, you believe, in
20 the treaty room attended at various times also by
21 Mrs. Clinton, your partner Jim Fuller, and Margaret
22 Williams. At any time on that visit to the White

1 House residence, did you go up to the third floor of
2 the residence?

3 A I can't remember. As I testified to, I
4 can't be sure exactly what room that meeting was in,
5 so I can't be sure exactly if I was on the third
6 floor on that day. I can't be sure. I gave you my
7 best recollection.

8 Q Was the meeting that you've described that
9 you attended at the residence in August 1995 in the
10 room which you believe to be the book room?

11 A No.

12 Q At any time that day, in August 1995, did
13 you go into the room you believe to be the book room?

14 A Again, coming back to what I said before, I
15 can't remember that '95 incident that I've testified
16 to, when that was. So I've told you the best I know
17 about the book room, the so-called book room and
18 whether I was in it at all or when, I can't add to
19 that. I just don't remember when that exact thing
20 that I described happened. I don't remember.

21 Q I think I'm not being clear. You testified
22 about two times that you were -- once in 1993 and

1 once in '95 when you were in the room that you
2 believed to be the book room?

3 A No, I want to be careful. In each
4 occasion, I was in a room that had certain
5 characteristics that fit and what I heard publicly
6 that fit with the book room, but I'm not sure on
7 either occasion it is the so-called book room. It
8 has a number, doesn't it? I cannot be sure.

9 Q I don't want to misstate it. You've told
10 us about two meetings, one in 1993, one in 1995, that
11 took place in a room on the third floor of the
12 residence which you think might be the book room, but
13 you don't know --

14 A No, I don't want to say that. There
15 weren't meetings at all. Go ahead. Maybe ask your
16 question --

17 Q You were present on this room in the third
18 floor of the residence, once in 1993 and once in
19 1995. I don't want to talk to you about either of
20 these two meetings.

21 A And let's not do that.

22 Q I don't want to misstate your testimony. I

1 want to ask you about the one time that you went to
2 the residence in August of 1995, and you testified
3 that you don't remember the exact date, even though
4 we've shown you logs which indicate you were in the
5 residence on August 11, 1995. I just want to be
6 clear on that visit.

7 In August 1995 when you met with
8 Mr. Fuller, Ms. Williams and Mrs. Clinton, were you
9 ever in the room on the third floor of the residence
10 which you've testified about which meets some of the
11 descriptions or some aspects of the descriptions that
12 people have given for the book room?

13 A Right, and I cannot remember the date of
14 that meeting. I cannot remember the date of that
15 visit, whatever you want to call it, to the book room
16 in '95, so I can't say it wasn't August 11. I can't
17 say it wasn't August 23rd. I don't remember when it
18 was, is what I'm saying. I don't remember when that
19 encounter or incident or whatever you want to call it
20 happened. I don't remember.

21 MR. KRAVITZ: Can we go off the record for
22 a second.

1 (Discussion off the record.)

2 MR. KRAVITZ: That's all I have.

3 EXAMINATION

4 BY MR. BARTOLOMUCCI:

5 Q Just one last question. In July of 1993,
6 in connection with your representation of the
7 Clintons, were you anticipating litigation?

8 MR. SUNDERMEYER: That's privileged.

9 MR. BARTOLOMUCCI: Well, you've raised work
10 product objections, and as you know, that doctrine is
11 properly asserted when an attorney is in anticipation
12 of litigation. We can hardly assess the propriety of
13 the assertion of that doctrine unless we know
14 whether, in fact, litigation is being anticipated.

15 Are you still going to instruct your client
16 not to answer the question?

17 MR. SUNDERMEYER: I'm not going to change
18 the earlier responses, if that's your question, no.

19 MR. BARTOLOMUCCI: Well, my question is,
20 are you going to instruct the client not to -- well,
21 Mr. Barnett --

22 MR. SUNDERMEYER: I'm not going to debate

1 with you the bases for privilege in this case on the
2 record, if that's the question.

3 MR. BARTOLOMUCCI: I'm not trying to debate
4 it. I want to know whether you'll permit Mr. Barnett
5 to answer the question I posed.

6 MR. SUNDERMEYER: The question you posed is
7 privileged. What is in any lawyer's mind at Williams
8 & Connolly on these affairs is privileged.

9 MR. BARTOLOMUCCI: It's your position that
10 whether Mr. Barnett was anticipating litigation in
11 July of 1993 in connection with his representation of
12 the Clintons is itself privileged?

13 MR. SUNDERMEYER: Yes.

14 BY MR. BARTOLOMUCCI:

15 Q Mr. Barnett, in July of 1993, were there --
16 was there any pending litigation that involved
17 Whitewater?

18 MR. SUNDERMEYER: That's privileged. We're
19 not going to get into what he's remembering about
20 Whitewater. We're not going to do it.

21 MR. BARTOLOMUCCI: I'm asking him whether
22 he knew in July of '93 whether there were any suits

1 that had been filed. Now, if there were suits, those
2 would be public facts, and that obviously can't be
3 privileged.

4 MR. SUNDERMEYER: His recollection is
5 privileged. You can go find all the documents you
6 want. You can go out and find all of the public
7 facts you want. You can go out and talk to all of
8 the third parties you want. What is abusive about
9 this process of dragging the clients' lawyers down
10 here is you can't wring it out of the lawyer's mind.
11 That's what's wrong with this, unfair about it.

12 MR. BARTOLOMUCCI: I have to tell you, I
13 don't think that is a question that calls for
14 revelation of any privileged information. I'm not
15 asking about any communication that came from the
16 client to Mr. Barnett, but I've got to tell you, I
17 mean, at some point, the Chairman of this Committee
18 might well rule upon the propriety of the assertion
19 of a work product claim, and to that end, I think
20 it's both proper that you provide some information
21 that relates to the propriety of that assertion, and
22 I think it would also behoove Mr. Barnett in this

1 matter.

2 Are you seriously going to object to a
3 question about whether there was a pending litigation
4 in July of 1993 that involved Whitewater?

5 MR. SUNDERMEYER: His recollection? Yes,
6 yes.

7 MR. BARTOLOMUCCI: His recollection as
8 gleaned from public documents?

9 MR. SUNDERMEYER: His recollection gleaned
10 from anywhere, yes. Williams & Connolly lawyers are
11 not going to be talking to the Committee about their
12 recollections. We have -- this goes again, back to
13 the meetings that we had with Mr. Giuffra, before you
14 began to interrogate Williams & Connolly lawyers.
15 The position hasn't changed. It's the same position
16 we took at that time.

17 MR. BARTOLOMUCCI: Well, obviously Williams
18 & Connolly lawyers have discussed their
19 recollections. Mr. Kendall has done so.

20 MR. SUNDERMEYER: Yes, according to the
21 lines drawn, and you are outside the lines. We went
22 all through this. I mean, we have spent hours here

1 today talking about topics about which we had a
2 meeting, about which there was an agreement between
3 Senator D'Amato and Senator Sarbanes --

4 MR. BARTOLOMUCCI: Which had nothing to do
5 with the July '93 meeting, I've been advised by
6 Mr. Chertoff who I believe would be in a position to
7 know. I don't know if you were a party to whatever
8 this agreement is. I know I wasn't, so I've only the
9 information I gleaned from Mr. Chertoff to go on, and
10 my understanding is that no agreement was reached
11 with respect to July 1993 matters, which predate this
12 Committee's investigation of Whitewater. So I don't
13 think there's any agreement that relates to the July
14 '93 period.

15 BY MR. BARTOLOMUCCI:

16 Q Just to make sure that speech hasn't
17 changed anyone's mind, in July of 1993, were you
18 aware of any litigation involving the Clintons that
19 also involved Whitewater?

20 MR. SUNDERMEYER: It's been asked and
21 answered.

22 MR. BARTOLOMUCCI: Well, answered by you.

1 MR. SUNDERMEYER: Yes, certainly.

2 MR. BARTOLOMUCCI: Okay. Well, just for
3 the record, I'm finished, but I just want to say for
4 the record that your assertions of privilege here
5 should -- the fact that I've stopped when they were
6 raised shouldn't be construed to mean that that's
7 acceptance by the Committee of those assertions of
8 privilege, and work product doctrine, and there may
9 come a time at a public hearing in which Mr. Barnett
10 will be called to answer those same or similar
11 questions. I just want to make sure these are clear
12 to you.

13 MR. SUNDERMEYER: These are -- as we
14 explained to Mr. Giuffra two weeks ago, three weeks
15 ago, whenever it was, when we were in this very room,
16 these are extremely technical and difficult
17 questions, and we are happy to discuss them with the
18 staff of the Committee as we move forward through
19 this process, and we have been doing so. That
20 position hasn't changed.

21 So we understand that you all are
22 reserving. We understand that. And if somebody

1 wants to talk to us further about that reservation,
2 we are happy to do so.

3 MR. BARTOLOMUCCI: Neil, do you have
4 anything else?

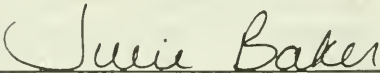
5 MR. KRAVITZ: No.

6 MR. BARTOLOMUCCI: We're finished.
7 (Whereupon, at 12:21 p.m., the deposition
8 was concluded.)
9

10 -----
11 ROBERT B. BARNETT
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 30, 1997

**DEPOSITION OF JAMES B. BLAIR
IN RE: S. RES. 120**

MONDAY, FEBRUARY 19, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of JAMES B. BLAIR, called for examination pursuant to notice of deposition, at 12:45 p.m. in Room 640-A of the Hart Senate Office Building, before JOANNE LIVERANI, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.
Majority Chief Counsel
ALICE S. FISHER, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

THOMAS C. GREEN, Esq.
Sidney & Austin
1722 Eye Street, NW
Washington, DC 20006

W.H. TAYLOR, Esq.
Mashburn & Taylor
E.J. Ball Plaza, Sixth Floor
112 West Center
P.O. Box 3457
Fayetteville, Arkansas 72702
On behalf of the Deponent.

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WITNESS

EXAMINATION

James B. Blair

by Mr. Giuffra 5

P R O C E E D I N G S

MR. GIUFFRA: Good afternoon, Mr. Blair.

My name is Robert Giuffra. I am the chief counsel of the Senate Banking Committee. To my left is Alice Fisher, who is deputy special counsel to the Majority on the Senate Whitewater Committee and further down the table is Lance Cole, who is deputy special counsel for the Minority.

This is a deposition being conducted pursuant to Senate Resolution 120. This resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, the Arkansas Development Finance Authority and other related matters. Your deposition today will be in advance of a public hearing at which I suspect you will be asked to testify; no date has been yet set as to when you would be asked to testify. We will give you advance notice.

The procedure today is specified in Senate Resolution 120. I will first ask you a series of

4

questions and then Mr. Cole will ask you a series of questions, you will be testifying under oath. If at any point you don't understand a question, let us know. If you need a break, let us know. The court reporter will prepare a record of the questions and answers. The deposition will be treated as committee confidential until the hearings, meaning it will not be made available to the public.

THE WITNESS: That means you keep good notes.

MR. GIUFFRA: Prior to the hearings, you will be given an opportunity to review the deposition, you will get a copy of the deposition four days before you testify. And it will also be made available at the Senate where somebody can come and get it and I suspect you will want to get a copy sent to your lawyer.

You have a right to be represented by counsel. Would counsel state an appearance for the record.

MR. GREEN: My name is Thomas Green of the firm of Sidley & Austin, Washington, D.C.

1 MR. TAYLOR: My name is W.H. Taylor,
2 Mashburn & Taylor, Fayetteville, Arkansas.

3 MR. GIUFFRA: Objections to the form of
4 questions will be noted for the record. We have a
5 procedure set forth for deposition that provides
6 counsel can object as well on grounds of privilege or
7 relevance, and in dealing with those sorts of
8 objections, we may go to the Chairman and the
9 Chairman may rule on the objections or we can proceed
10 and rule on a later date.

11 Do you have any questions, Mr. Blair?

12 THE WITNESS: I have none.

13 MR. GIUFFRA: Mr. Green.

14 MR. GREEN: No.

15 Whereupon,

16 JAMES B. BLAIR
17 was called as a witness and, having first been duly
18 sworn, was examined and testified as follows:

19 EXAMINATION

20 BY MR. GIUFFRA:

21 Q Mr. Blair, I want to be careful and try not
22 to go over matters that were covered in your

1 telephone deposition and one of the reasons we are
2 having the deposition today is to deal with the
3 documentary evidence that we have.

4 As you know, we had a telephone deposition
5 on November 20, 1995, and I appreciate very much your
6 agreeing to do that.

7 During that deposition, you mentioned that
8 you have represented the Clintons between
9 approximately 1974 and 1992 as a lawyer; is that
10 correct?

11 A That's true. It might be '93 or -- I am
12 not sure there has ever been an official end to it.
13 I just -- I assume when he became President, that
14 basically he had access to more firepower than I
15 could provide.

16 Q Beginning in 1974, can you just roughly
17 state for the record what the nature of the
18 representations were that you provided for Governor
19 and Mrs. Clinton?

20 MR. COLE: Don't we have an issue of scope
21 here with respect to whether any of Mr. Blair's
22 representations were within the scope of the

1 resolution? Because if they don't relate in any way
2 to the matters in the resolution, I don't think we
3 have authority to inquire into them even before we
4 get to obvious privilege issues.

5 MR. GIUFFRA: Let's go off the record for a
6 second.

7 (Discussion off the record.)

8 MR. GIUFFRA: We had a discussion off the
9 record. And let's just state the question so it is
10 clear, the question is, Mr. Blair has indicated
11 that -- has represented the Clintons beginning some
12 time in '74 up through '92 and perhaps into '93. And
13 the question is, what was the nature of the legal
14 representation Mr. Blair provided to the Clintons,
15 and specifically what subject matters generally was
16 that representation related to.

17 THE WITNESS: I do not believe that that
18 question is within the scope of Senate Resolution
19 120, and I am not going to answer it.

20 MR. GIUFFRA: I want to state on the record
21 that I believe the question does relate to Senate
22 Resolution 120 because it is basically just

1 background information going to the nature and extent
2 of Mr. Blair's relationship with the Clintons, and
3 such information is directly relevant to
4 understanding what role he played with regard to
5 matters specified in the resolution. The question
6 does not ask for communications between Mr. Blair and
7 the Clintons that might be privileged but only goes
8 to a general description of the types of matters he
9 would have handled for the Clintons between '74 and
0 '92.

1 Just so the record is clear, I may call the
2 Chairman, if we have a break, and he would rule on
3 relevance of the question and then you could decide
4 how you wanted to handle it from there.

5 MR. GREEN: It is your nickel.

6 BY MR. GIUFFRA:

7 Q Now between 1974 and 1993, did any of the
8 legal representations you provided to either Governor
9 or Mrs. Clinton relate to matters specified in Senate
10 Resolution 120?

11 A Give me the years again.

12 Q '74 through '93.

1 A I think the answer to that would be yes.

2 Q Let me ask -- have you read Senate
3 Resolution 120?

4 A Yes.

5 Q What matters in Senate Resolution 120 would
6 have related to the prior legal representation of the
7 Clintons?

8 A At a point in time, I worked with David
9 Kendall, in the development of or discovery of some
10 facts which related to some of the controversies that
11 are generally described as Whitewater.

12 Q Now, would that have been in late 1993 or
13 '94?

14 A It would not be after '94. It could be --
15 yes, it could be in '94 and also in '93. I don't
16 remember when Kendall came on board.

17 Q Did you attend any meetings with
18 Mr. Kendall?

19 A Yes.

20 Q Do you recall approximately how many
21 meetings you would have attended with Mr. Kendall?

22 A Yes.

10

1 Q How many?

2 A I'm not going to answer that.

3 Q Okay. In 1993, 1994, did you represent
4 President and Mrs. Clinton with respect to Whitewater
5 matters?

6 A I believe.

7 Q Were you compensated for representing the
8 Clintons in 1993 and 1994 with regard to Whitewater
9 matters?

10 A No, in the sense that I never submitted a
11 bill, no.

12 Q When, if ever, did your attorney-client
13 privilege with the Clintons cease with regard to
14 Whitewater matters?

15 A I don't know that it has. I voluntarily
16 have taken myself out of dealing with the matter,
17 because I don't think I can be helpful, but there
18 wasn't any formal --

19 Q Are you aware of a subpoena that was issued
20 by the Senate Banking -- Senate Whitewater Committee
21 on October 30, 1995; did you receive a copy of that
22 subpoena?

1 A No. I am not aware of any specific date of
2 any specific subpoena. I have had a subpoena served
3 on me by the Senate Banking Committee.

4 Q Okay. Are you aware of any documents that
5 are being withheld by you that would otherwise be
6 responsive to the Senate subpoena on grounds of
7 privilege?

8 A No.

9 Q So you wouldn't have notes of any meetings
10 with Mr. Kendall, for example, that you are
11 withholding on grounds of privilege?

12 A No.

13 Q Did you also speak to Mr. Kendall in
14 1993-1994 by telephone?

15 A Yes.

16 Q The question is related to the number of
17 conversations you had with Mr. Kendall and when they
18 occurred. You will deem those to be privileged?

19 A Yes.

20 Q Now my question related to representations
21 that you might have engaged in for the Clintons
22 between '74 and '93 regarding matters set forth in

1 Senate Resolution 120. Did you have any other
2 involvement with regard to such matters other than
3 these conversations with Kendall in '93-94?

4 A Restate that question.

5 MR. GREEN: You want to look at the -- do
6 you have the resolution?

7 THE WITNESS: No, I don't need the
8 resolution. I mean, the question --

9 BY MR. GIUFFRA:

0 Q Between 1974 and 1994, okay, that's a
1 20-year period, did you provide any legal services to
2 either President or Mrs. Clinton relating in any way
3 to the matters specified in Senate Resolution 120?

4 A Other than what we've previously
5 discussed?

6 Q Other than what we've previously
7 discussed.

8 A There is an ambiguity that I think, in all
9 fairness, we have to deal with, and that is the
10 Clinton campaign and the Clinton/Gore campaign are
11 technically separate entities from the President and
12 the First Lady. I am not trying to slip by this. I

1 did provide legal services to the campaign, which I
2 don't believe are legal services to the campaigners.
3 I believe the campaign itself is an entity.

4 Q Other than legal services that you would
5 have provided to the campaign, the President's
6 primary campaign or the Clinton/Gore general election
7 campaign and other than communications you might have
8 had with Mr. Kendall in 1993/1994, have you provided
9 any legal services relating in any way to the matters
10 specified in Senate Resolution 120?

11 A No. Not that I recall.

12 Q Okay, so you personally would not have
13 provided any legal services at any time to Madison
14 Guaranty?

15 A Never.

16 Q You never provided any legal services to
17 James McDougal?

18 A Never.

19 Q No legal service to Capital Management
20 Services?

21 A Never.

22 Q No legal services relating in any way to

1 Daniel Lasater?

2 A No, never.

3 Q No legal services related to the Arkansas
4 Development Finance Authority?

5 A Never.

6 Q Were you involved at all in the Clintons'
7 1990 gubernatorial campaign?

8 A Oh, to a limited extent.

9 Q What would have been that extent?

10 A Probably fundraising.

11 Q Do you have any knowledge with regard to
12 the use of cash in connection with get-out-the-vote
13 efforts in the '90 campaign?

14 A I have none.

15 Q Do you know anything about any transactions
16 involving the 1990 campaign and the Perry County
17 Bank?

18 A Only what I have read in the newspapers.

19 Q Have you ever spoken to Bruce Lindsey --
20 strike that.

21 Do you know Bruce Lindsey?

22 A I do.

1 Q Have you ever spoken to Bruce Lindsey about
2 any transactions involving the Clinton 1990
3 gubernatorial campaign and the Perry County Bank?

4 A I don't believe so.

5 Q Do you know a man named Herb Branscum?

6 A I do.

7 Q Who is Herbert Branscum?

8 A He was at one time a chairman of the state
9 Democratic party and he was at one time a member of
0 the state claims commission. He is a lawyer in the
1 metropolis of Perryville. I believe he may be the
2 chairman of the board of whatever that bank is at
3 Perryville.

4 Q Have you ever spoken to Mr. Branscum about
5 any transactions involving the Clintons' 1990
6 campaign and the Perry County Bank?

7 A No.

8 Q Have you ever spoken to anyone other than
9 your counsel about any transactions involving the
0 Clintons' 1990 gubernatorial campaign and the Perry
1 County Bank?

2 A Yes. In the sense that I've expressed some

1 outrage about some of the things that Independent
2 Counsel Starr has done in connection with that.

3 Q Other than expressing outrage, have you had
4 any other discussions involving that issue?

5 A No.

6 Q Mr. Blair, you just indicated that you had
7 some outrage with regard to actions taken by
8 Independent Counsel Starr in connection with his
9 investigation of the 1990 Clinton campaign.

0 Do you have any basis, factual basis for
1 having such outrage other than what you read in the
2 newspapers?

3 A Well, what I understand is that he told
4 this little banker down there, whose name is Ainley
5 or something --

6 Q Neal, A-i-n-l-e-y.

7 A -- that they would bankrupt him if he
8 didn't make a plea to a misdemeanor and I think
9 that's pretty typical of the stuff they've done. And
0 he wound up deciding he didn't want to go bankrupt.

1 Q Did you discuss this matter with
2 Mr. Ainley's lawyer or with someone --

1 A No, with members of the press.

2 Q Was your first involvement in the legal
3 representation of matters described in Senate
4 Resolution 120 that came about in the 1992 Clinton
5 presidential campaign?

6 A Yes.

7 Q How did you first become involved in
8 matters relating -- specified in Senate Resolution
9 120 during the '92 Clinton presidential campaign?

10 A My wife was a full-time volunteer in the
11 campaign. She was living in Little Rock. And I
12 would go visit her on weekends, sometimes during the
13 week, I would -- she was working 18-hour days at the
14 campaign headquarters.

15 Q Who did your wife work for?

16 A Initially, she worked in issues and I don't
17 remember the name of the person who had the title,
18 head of issues. I guess at one point she worked for
19 Eli Segal. At one point, she worked with Betsey
20 Wright.

21 Q Okay, and so you would visit your wife
22 and --

1 A And I would make myself useful if there was
2 anything I could do.

3 Q Were you asked by anyone to get involved in
4 matters specified in Senate Resolution 1 --

5 A I was.

6 Q Who asked you to get involved in such
7 matters?

8 A I believe my wife may have volunteered me,
9 but it was Loretta Lynch, I think, that actually
10 asked me initially to do things.

11 Q You were not asked to get involved in
12 matters specified in Senate Resolution 120 by either
13 of the Clintons?

14 A No.

15 Q Was Governor Clinton aware that you were
16 getting involved in matters relating to Senate
17 Resolution 120?

18 A I would doubt it. I mean, he was on the
19 road seven days a week making campaign appearances.
20 He was never around the headquarters. I never saw
21 him at the headquarters, I never saw her at the
22 headquarters.

1 Q Was Mrs. Clinton aware you were involved in
2 matters relating to Senate Resolution 120 during the
3 campaign?

4 A Not that I recall.

5 Q What matters specified in Resolution 120
6 did you provide legal services to the campaign with?

7 A I did some investigation. I did some
8 interpretation of Arkansas law, and I guess that's t
9 basically.

0 Q What investigation did you conduct during
1 1992 Clinton presidential campaign?

2 A Well, after -- and I don't recall when his
3 article appeared, but I guess it was after there was
4 a threatened article by Jeff Gerth of The New York
5 Times. I told some people what they should do in
6 terms of building a data file on being able to
7 respond to these questions.

8 Q And who would you have spoken to during the
9 1992 campaign about responding to Mr. Gerth's
0 article?

1 A Well, I am sure I talked to Loretta Lynch.
2 I may or may not have talked to Susan Thomases. I

20

1 talked to some law clerks whose names I don't
2 remember at the Rose firm.

3 Q When you mentioned speaking to law clerks
4 at the Rose Law Firm, in what connection would you
5 have spoken to law clerks at the Rose Law Firm?

6 A Whether one of them could go to the county
7 seat of the county that Whitewater Development was in
8 and run the grantor/grantee index and pick up any
9 copies of deeds, and also run the mortgage
0 grantor/grantee index and pick up any copies of
1 mortgages.

2 Q Did someone from the Rose Law Firm actually
3 go out to the county seat where Whitewater is located
4 and obtain such indices?

5 A I believe so.

6 Q Did you ask anyone at the Rose Law Firm to
7 provide any documentation to the campaign?

8 A No.

9 Q Any files relating to Whitewater
0 Development Corporation that might have been at the
1 campaign?

2 A No.

1 Q Strike that.

2 That might have been at the Rose Law Firm?

3 A No.

4 Q When we say "matters relating to Senate
5 Resolution 120," you are focusing on Whitewater
6 Development Corporation; correct?

7 A Whitewater Development Corporation, Madison
8 Guaranty, which I never had anything to do with, Jim
9 McDougal.

10 Q When did you first learn that the Rose Law
11 Firm had provided legal services to Madison Guaranty?

12 A I don't know. At some point, I think I
13 heard that they had represented -- and I am not sure
14 the entity was Madison Guaranty, it could have been
15 the Bank of Kingston -- they had represented a
16 McDougal entity in his effort to move it to Little
17 Rock. And I don't even know whether they won or lost
18 the case, and he wouldn't pay the bill.

19 Q And did you learn of this representation
20 prior to the 1992 campaign?

21 A No, it was during the 1992 campaign.

22 Q Are you aware of any efforts during the

22

1 1992 Clinton campaign to obtain any records from the
2 Rose Law Firm relating to either Madison or
3 Whitewater?

4 A In a vague sense, yes.

5 Q What do you know about such efforts to
6 obtain records from the Rose Law Firm?

7 A I believe that Vince Foster may have dealt
8 with that.

9 Q Do you have an understanding that
10 Mr. Foster obtained certain files from the Rose Law
11 Firm relating to Madison Guaranty and Whitewater and
12 brought them to the campaign?

13 A Not until after it's been in the papers.

14 Q Did you review any Rose Law Firm client
15 files during the 1992 campaign?

16 A No.

17 Q Do you have any understanding as to whether
18 anyone at the Clinton campaign reviewed any Rose Law
19 Firm client files?

20 A I was under the impression that Vince had.

21 Q Do you know whether such files were ever
22 brought to the campaign?

1 A I never saw them. I don't have any reason
2 to believe they were.

3 Q Let me show you a document with Bates
4 numbers DKS N 289228 through DKS N 29043. Could you
5 take a look at that?

6 MR. COLE: If you are going to ask him if
7 he has seen that before, you should note it is a
8 reduced version of the original that was submitted to
9 the committee.

0 MR. GIUFFRA: Those documents are Rose Law
1 Firm billing records.

2 THE WITNESS: Do I have to look at more
3 than the first?

4 BY MR. GIUFFRA:

5 Q You could flip through them if you want. I
6 think that makes most sense. Some of the documents
7 are different. These were found at the White House
8 on January 4, 1996.

9 A To my knowledge, I have never seen these
0 documents.

1 Q Now you just testified that you had an
2 impression that Vince Foster may have reviewed Rose

1 Law Firm client files relating to Madison and
2 Whitewater. What is the basis for your belief?

3 A Well, my recollection, which certainly is
4 not perfect, is that Gerth had made some allegations
5 about specifically the First Lady's activities in
6 representing Madison Guaranty. And that since Vince
7 was at the Rose Law Firm, he dealt with the
8 information that was necessary to respond to Gerth's
9 questions.

0 Q So it was your understanding that
1 Mr. Foster was involved in preparing the response to
2 Mr. Gerth's questions about the extent of
3 Mrs. Clinton's activities in representing Madison
4 Guaranty?

5 A I wouldn't phrase it quite that way. I
6 think he was involved in generating the information
7 that was used to respond. Now, I wasn't involved, so
8 I don't know what chain that followed.

9 Q Now, what investigatory activities do you
0 recall undertaking during the 1992 presidential
1 campaign relating to Whitewater other than what
2 you've testified to with regard to obtaining

1 grantor/grantee indices and mortgage indices?

2 A Well, I was asked to meet with Jim
3 McDougal -- one, I was asked to locate him, and then
4 two, I was asked to meet with him.

5 Q Why were you the person who was asked to
6 locate and then meet Jim McDougal?

7 A Somebody apparently knew that I had known
8 him for over 30 years. And the purpose that I was --
9 I was asked to find him and see if he would meet with
10 a lawyer named Jim Lyons from Denver who was working
11 on some of the financial accounting aspects of
12 Whitewater.

13 Q And were you able to ultimately locate
14 Mr. McDougal?

15 A I had called his lawyer, who was a lawyer
16 with the name of Sam Heuer, and asked him if he could
17 find McDougal. And I may have also contacted a guy
18 named R.D. Randolph, who was a mutual friend of both
19 McDougal and myself and asked him if he could contact
20 McDougal. And ultimately, as I recall it, I was
21 sitting at a desk or a table in the campaign
22 headquarters and a note was put in front of me that

1 Heuer had called and he and McDougal were waiting at
2 his law office to meet with me.

3 Q Let me show you a document bearing Bates
4 numbers 635 to 639.

5 A Okay.

6 Q Are these your notes?

7 A They are.

8 Q When did you prepare these notes, if you
9 know?

10 A My belief is that I prepared them on March
11 11 of 1992. This is not something I normally do and
12 I normally don't keep and I normally don't prepare
13 notes like this. But my recollection was that
14 Loretta Lynch requested that I memorialize our
15 meeting and this is what I did.

16 Q Who else was present at the meeting besides
17 yourself and Mr. Heuer and Mr. McDougal?

18 A Loretta Lynch.

19 Q Do you know if she took any notes?

20 A Neither one of us took any notes at the
21 meeting itself. I wrote this down after I left the
22 meeting.

1 Q And what was the purpose for writing this
2 down?

3 A My sole purpose was to placate Loretta, she
4 wanted it so I did it.

5 Q Following the meeting with McDougal, did
6 you discuss that meeting with anyone?

7 A I don't believe so. I left that to
8 Loretta.

9 Q Never spoke to either the governor or
0 Mrs. Clinton about any conversations you might have?

1 A I never spoke to either one of them about
2 any conversation I had had with McDougal.

3 Q Let's just look at your notes.

4 A Okay.

5 Q And then I'll --

6 A I am looking.

7 Q Okay.

8 A I am still looking.

9 Q You and Mr. McDougal met when he was 18?

0 A That's true.

1 Q How did you first meet Mr. McDougal?

2 A I was an officer of the student government

1 at the University of Arkansas, and in that capacity I
2 at certain times served as a guide for prospective
3 students and their parents who came to tour the
4 university. Jim McDougal and his parents came, or at
5 least his mother, I don't recall his father being
6 there, came and I conducted them about the campus of
7 the University of Arkansas.

8 Q Now, what was the nature of your
9 relationship with McDougal after college? Did you
0 see him on a regular basis?

1 A Well, I was involved for some years with
2 the Young Democrats of Arkansas. One time I think
3 served as its legal counsel. He was very involved
4 for some years in the Young Democrats. I was Senator
5 Fulbright's campaign manager in the election of 1974,
6 and McDougal was a member of Fulbright's staff, I
7 believe, at that time.

8 I saw him mostly in political contexts.

9 Q And you never had any dealings with Madison
0 Guaranty?

1 A I never had any dealings with Madison
2 Guaranty. I do recall one other -- I did support

1 McDougal in his race for Congress when he ran for
2 Congress in 19 -- I believe, '82.

3 Q Did you ever have any dealings with regard
4 to the Bank of Kingston?

5 A Never.

6 Q Now you asked Mr. McDougal if he would talk
7 to Lyons?

8 A Yes.

9 Q And what was his reaction?

10 A He said that he didn't want to waste his
11 time talking to some high-powered lawyer that didn't
12 think half as fast as he did. That he would talk to
13 me, but he wasn't about to be cross-examined by some
14 high-powered lawyer.

15 Q He ultimately agreed to meet with
16 Mr. Lyons?

17 A I don't know that.

18 Q Do you know whether he ever did?

19 A Not that I know of.

20 Q So you acted as the go-between between the
21 campaign and Mr. McDougal?

22 A Well, go-between has a pejorative context

1 in the minds of some people and I prefer you not use
2 that word. I believe Congressional people use the
3 word "liaison."

4 Q Were you the liaison between the campaign
5 and Mr. McDougal?

6 A Yes, although I never talked to McDougal
7 without his lawyer present. I believe the man was
8 impaired and that he should always have his lawyer
9 with him when I talked to him.

10 Q Do you recall on approximately how many
11 occasions you would have spoken to Mr. McDougal
12 during the 1992 presidential campaign?

13 A Well, really almost all my conversations
14 after that meeting were with his lawyer rather than
15 him. I don't really recall talking directly to him,
16 but that one time.

17 Q Do you know why that was that you would
18 have only spoken to Mr. Heuer?

19 A You are talking about a guy that was
20 mentally disturbed and erratic and the -- I think his
21 lawyer preferred that I deal through him, and I think
22 I preferred it.

1 Q Now, prior to coming to the meeting, had
2 there been discussion at the campaign about the fact
3 that Mr. McDougal had spoken to Mr. Gerth?

4 A Yes.

5 Q What was the discussion at the campaign
6 about the fact that Mr. McDougal had spoken to
7 Mr. Gerth?

8 A At some point, it developed, and I don't
9 recall when, that the information developed that
0 Gerth was talking to a guy named Sheffield Nelson,
1 who was a Republican who had run against Clinton and
2 been defeated and was very bitter about the race. At
3 some point, I was told that Nelson had enticed
4 McDougal to his office, that McDougal was angry,
5 primarily, with Governor Tucker, or Lieutenant
6 Governor Tucker, I guess he was then, and that
7 Sheffield Nelson had persuaded McDougal to visit with
8 Gerth, and to provide Gerth with documents and had
9 managed to transform McDougal's attention from Tucker
0 to Clinton.

1 Q And was there concern at the campaign about
2 what Mr. McDougal might be saying to Mr. Gerth about

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1 Governor Clinton?

2 A Well, the answer to that is yes.

3 Q And who would have expressed such concern
4 at the campaign with regard to what Mr. McDougal
5 might be saying about Governor Clinton?

6 A Anybody that was dealing with Jeff Gerth,
7 who is very capable of lying and who would call you
8 up and say, well, McDougal says that Clinton set fire
9 to the State House, what do you have to say about
0 that. I mean, he would lead with some outrageous
1 statement.

2 Q Who else in the campaign besides yourself
3 and Ms. Lynch would have been dealing with Mr. Gerth?

4 A Susan Thomases.

5 Q Anyone else?

6 A I don't know whether Lyons ever dealt
7 directly with him or not.

8 Q Did Lindsey ever deal with Mr. Gerth?

9 A Probably, but I don't know. Lindsey was
0 mostly traveling with the President, so I don't know.

1 Q Would Lindsey have been acting as liaison
2 between the campaign and the President with regard to

1 Whitewater/Madison matters?

2 A I don't think the President at that point
3 was -- I mean, nobody, I don't think, thought this
4 was a really big deal at that point.

5 Q And so you asked Mr. McDougal why he had
6 spoken to Gerth and what did McDougal say?

7 A Oh, he gave me this song and dance about
8 when he was with Fulbright, that Fulbright always
9 believed that when the press was after you, you
10 should just give them everything you got, and that he
11 had given Gerth some records that obviously we didn't
12 have copies of and didn't know what were, and he -- I
13 don't think was entirely truthful with me about the
14 size and extent of what he had given Gerth, but he
15 admitted he had given him some things.

16 Q Why do you think he wasn't truthful with
17 you about the size and extent of the documents he had
18 provided to Mr. Gerth?

19 A Probably because he was embarrassed.

20 Q Do you have any idea what Mr. McDougal did
21 give to Mr. Gerth?

22 A I have never been able to actually

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1 determine that.

2 Q Did you attempt after the meeting to try to
3 find out?

4 A I did attempt to, but I never was able to.

5 Q What do you believe he gave to Mr. Gerth?

6 A I believe -- he says he gave him some check
7 stubs and I believe that -- I believe he gave some
8 other documents but I don't know what they are. That
9 may be where all your missing documents are.

10 Q So it was your understanding that Sheffield
11 Nelson had basically convinced Gerth McDougal to talk
12 to Gerth?

13 A Yes.

14 Q And he was a political adversary of the
15 governor?

16 A Yes.

17 Q And so Sheffield Nelson wanted McDougal to
18 say some things that might be negative about Governor
19 Clinton?

20 A Yes.

21 Q And that was your understanding prior to
22 attending the meeting with McDougal?

1 A Yes.

2 Q What was the basis for your understanding
3 that Sheffield Nelson was asking McDougal to say
4 negative things about Governor Clinton?

5 A I think that we had run across other
6 instances of Sheffield's activities in that regard.

7 Q Relating to what subject matters?

8 A Relating to any kind of a negative issue
9 that he could develop on Clinton.

0 Q Do you recall what any of those issues
1 might have been?

2 A I think it was believed that he might have
3 been a source of what has been euphemistically
4 referred to as the "bimbo eruption."

5 Q Any other issues?

6 A There was some accusations about an ethics
7 law that had been passed that Gerth later did an
8 article on that may have had people asking questions
9 about it. There was some kind of -- of allegation
0 about bond, state bond issues in the Rose Firm.

1 Q Was Mr. Nelson the source of the charges
2 with regard to the commodities trading of

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1 Mrs. Clinton?

2 A No. And that never came out during the
3 campaign.

4 Q Now, your notes indicate that Mr. McDougal
5 said he wasn't mad at Governor Clinton, but that
6 Susan McDougal had differences with Hillary?

7 A That's what he said.

8 Q Did he say anything more than what's
9 specified in your notes?

0 A No.

1 Q Did he indicate why Mrs. McDougal might
2 have had her differences with Mrs. Clinton?

3 A He did not.

4 Q Do you have any understanding as to why
5 Mrs. McDougal may have had differences with
6 Mrs. Clinton?

7 A I didn't then and I still don't. And maybe
8 she doesn't, I don't even know that that's true.

9 Q Now, your notes indicate that Mr. McDougal
0 was angry about the extent of support you received
1 from Governor Clinton in connection with
2 Mr. McDougal's indictment on bank fraud charges in

1 the late '80s?

2 A Yes.

3 Q What more did he say about that subject?

4 A Oh, he said that if it had been Clinton, he
5 would have been out raising money for his defense.
6 He didn't feel like anybody had helped him except
7 Sheffield Nelson.

8 Q Did he say anything during the meeting that
9 you had with he, Ms. Lynch and Mr. Heuer about his
10 own need for money?

11 A He -- he did say that he was getting a
12 Social Security disability check, that his father,
13 although erratic and up and down in his financial
14 ventures, had left his mother pretty well off, and
15 that he was not in need of money.

16 Q So your recollection is he specifically
17 said he was not in need of money during this meeting?

18 A Well, the context of that was about a job,
19 and what he said was he didn't need a job, he didn't
20 want a job. I don't know that he said he didn't need
21 or didn't want money.

22 Q Now, would the job be a job working for the

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1 state of Arkansas or the U.S. government if Clinton
2 was elected President?

3 A I have no idea what he was talking about.

4 The context was that he apparently believed
5 that Clinton had somehow indicated to McDougal's
6 mother that he would consider finding something for
7 McDougal. And he said he didn't want it, didn't need
8 it, wasn't seeking it, but that he felt like Clinton
9 should have called him or called his mother or called
10 somebody, I don't -- he was in a somewhat manic
11 flaming state and --

12 Q Was this in -- called him about the job
13 during the 1992 campaign or during the trial back in
14 1990?

15 A No, I believe that referred to the 1992
16 campaign. But I -- you could be right, I could be
17 wrong.

18 Q You say on the next page "I gently asked
19 him about the Prozac he was taking and he wished he
20 had it available 20 hours" --

21 A "20 years ago."

22 Q Did he raise that or did you raise the

1 issue of Prozac?

2 A Well, you read my notes and in the notes I
3 say I raised it. The notes are correct, to the best
4 of my knowledge.

5 Q Did you have any understanding about what
6 type of medication Mr. McDougal was taking prior to
7 the meeting?

8 A I had heard, I think, that he was on both
9 lithium and Prozac, that he was regulating his own
10 doses and self-medicating himself and that that was a
11 possible explanation of his erratic behavior.

12 Q Who had told you that?

13 A I don't recall. It could have been Mr.
14 Heuer. It could have been Randolph, I don't recall.

15 Q Prior to this meeting with Mr. McDougal,
16 had you spoken to Mr. Randolph about Mr. McDougal?

17 A I believe I had, yes.

18 Q What do you recall about any conversations
19 you had with Mr. Randolph about Mr. McDougal?

20 A Well, I think he said that McDougal was
21 living down in a trailer in the Bob and Claudia's
22 Properties in Arkadelphia, and see that -- see if he

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1 could find him.

2 Q Do you recall anything more about any
3 communications you would have had with Mr. Randolph
4 about Mr. McDougal?

5 A No.

6 Q Do you recall anything more -- strike
7 that.

8 Do you recall anything about any
9 communications with Mr. Heuer prior to this meeting
10 on March 11 about Mr. McDougal?

11 A No. Now I do recall at some point R.D.
12 apparently told McDougal he ought to quit talking to
13 the press, but I don't -- I don't recall the timing
14 of that.

15 Q Who is R.D.? What was R.D.'s position in
16 1992?

17 A He was working for the Arkansas Finance and
18 Development Authority.

19 Q ADFA?

20 A ADFA.

21 Q Do you know if he was -- ever spoke to
22 Governor Clinton about Mr. McDougal?

1 A I wouldn't think he would during the
2 campaign. I have no reason to believe that.

3 Q Okay. Let me read something from your
4 notes, "he said if Bill Clinton told McDougal's
5 mother he might find him a job, of course she told
6 everyone in the church and gossiped about it. It was
7 impossible to deny it."

8 What does that mean?

9 A You are asking me to interpret what he
10 meant. I put down what he said. I can't tell you
11 what he meant.

12 Q Is that -- what do your notes indicate
13 Mr. McDougal said? That would be in the fourth
14 paragraph on page 3 of your notes, Bates number 637.

15 A Well, my notes say, "he said if Bill
16 Clinton told McDougal's mother he might find him a
17 job, of course she told everyone in the church and
18 gossiped about it, it was impossible to deny." I
19 mean --

20 Q Do you recall anything about the context in
21 which this statement came up?

22 A I think we just discussed it. I think it

1 was in the context of he's saying that he didn't want
2 a job, didn't need a job, wasn't seeking a job, but
3 he felt like Clinton owed him a phone call or
4 something.

5 Q Are you aware of any communications between
6 Governor Clinton and Mr. McDougal's mother?

7 A No.

8 Q That's what this note seems to indicate?

9 A That doesn't mean it is true, though. I
10 just put down what he said.

11 Q Did you ever attempt --

12 A We all know that McDougal has said things
13 that aren't true.

14 Q Did you attempt to find out whether
15 Governor Clinton had spoken to Mr. McDougal's mother?

16 A No, I didn't.

17 Q Do you know whether Governor Clinton ever
18 spoke to Mr. McDougal during the 1992 campaign?

19 A Not that I know of. I have no reason to
20 believe he did.

21 Q Do you know whether Mrs. Clinton ever spoke
22 to Mr. McDougal during the 1992 campaign?

1 A Not that I know of. I have no reason to
2 believe she did.

3 Q Do you know whether either of the two
4 Clintons would have spoken to Mr. Heuer during the
5 1992 campaign about Mr. McDougal?

6 A Not that I know of, and I have no reason to
7 believe they did.

8 Q Further down in your memo to files, there
9 is discussion of lot 13?

10 A Right.

11 Q What is lot 13?

12 A Well, as you well know, there were
13 40-something lots in the Whitewater Development
14 Corporation, and they were sequentially numbered, and
15 one of them -- the one between 12 and 14 was numbered
16 13.

17 Q Now, did you learn that lot 13 was owned by
18 Mrs. Clinton?

19 A It was never owned by Mrs. Clinton, in my
20 opinion. It was in her name as nominee for
21 Whitewater Development Corporation, and we discussed
22 it at that meeting with McDougal. My understanding

1 of what occurred was that he wanted it as a demo lot,
2 and that a prefab house was put on there, that the
3 money was borrowed from some financial entity, and I
4 don't remember what, it could have been the Bank of
5 Kingston, in the amount of \$30,000 to pay for this
6 demo house, that house. That it was put in her name
7 and I asked him at this meeting why. And in his
8 patronizing way, he said, obviously I did it as a
9 marketing scheme, so that I could claim that the
10 governor had a piece of property here, and that way
11 we could sell more lots, but that the Clintons never
12 understood any of this.

13 Q Now, are you aware of any loans that
14 Mrs. Clinton took out in connection with lot 13?

15 A My recollection I believe is that she --

16 MR. GREEN: Do you know of any loans she
17 took out?

18 THE WITNESS: Yes. My recollection and
19 belief is that she signed a note, I believe, for
20 \$30,000. She didn't get the money. The money went
21 into Whitewater Development Corporation. That money,
22 or most of it, was used to pay for that prefab

1 house. The lot was ultimately sold to a guy named
2 Hillman Logan along with some other lots. He took
3 title to some of the lots in a company name he had.
4 He took title to some of the lots in his personal
5 name. There was even some midstream change, I
6 believe, in the titling.

7 Hillman Logan ultimately took bankruptcy.
8 Hillary Clinton was left with the exposure on the
9 note, which she had signed for the money, which she
10 never got, and that in order to protect her
11 interests, she bid the property back in at the
12 bankruptcy sale, because I guess the escrow owed on
13 the property was also owed in her name, and she
14 balanced the thing out by selling the property
15 again. That's what I recall.

16 BY MR. GIUFFRA:

17 Q Do you have any understanding as to why
18 this loan for \$30,000 was taken out in Mrs. Clinton's
19 name?

20 A Other than that's the way McDougal wanted
21 to do it, no.

22 Q What's the basis for your statement that

1 "that's the way McDougal wanted to do it"?

2 A That's what he told me at this meeting,
3 that he engineered that.

4 Q And he didn't indicate why the Clintons had
5 agreed to go along with this plan?

6 A He said they never did understand it.

7 Q They just signed the note?

8 A They signed the note.

9 I don't know that they signed the note. It
10 may have just been her.

11 Q But she just signed the note?

12 A That's what I think.

13 Q Do you know whether Mrs. Clinton made or
14 lost any money in connection with the transactions
15 surrounding lot 13?

16 A I think after the property was resold,
17 there may have been a modest profit, after the amount
18 of loan was offset by the proceeds of the sale.

19 Q Do you know to whom the Clintons would have
20 sold lot 13?

21 A Originally, to Hillman Logan --

22 Q After --

1 A No, I don't recall the second sale.

2 Q When was the first time you had learned
3 that the Clintons had made an investment in
4 Whitewater Development Corporation?

5 A 1992. I never heard it before 1992. I
6 never heard the word "Whitewater" in reference to
7 anything but canoeing before --

8 Q Prior to 1992, what was your understanding
9 of the relationship between Governor Clinton and
10 Mr. McDougal?

11 A That McDougal at one time had worked on
12 Clinton's staff. That's about the extent of it.

13 Q Did you ever attend any meetings or
14 functions at which Governor Clinton and Jim McDougal
15 were present?

16 A Not that I recall.

17 Q Did Governor Clinton ever --

18 A Now, let me -- let's be sure we got that
19 phrase right. That one or the other was present,
20 yes. That both of them were present together, not
21 that I recall.

22 Q Do you recall attending meetings at which

1 Mr. McDougal was present --

2 A In 1982, yes.

3 Q That was when he ran for Congress?

4 A Right.

5 Q Now, you don't know anything more about who
6 the American was who Mrs. Clinton sold lot 13 to
7 after the Hillman Logan bankruptcy?

8 A I don't recall off the top of my head. I
9 have the feeling that it is in the documents that I
10 furnished you pursuant to my subpoena, but I do not
11 have it in my conscious memory.

12 Q Do you know what Mrs. Clinton did with the
13 proceeds of that sale?

14 A No.

15 Q Do you know whether she gave the money back
16 to Whitewater Development Corporation?

17 A I don't know.

18 Q But this was a personal note originally;
19 correct?

20 A It was in her name.

21 Let me clarify that, let me clarify that.

22 I believe that the loan was in her name,

1 that she held title to the property as nominee for
2 Whitewater. That when it was sold, it wasn't her
3 property. That when she bought it back at the
4 bankruptcy sale, she bought it personally and not as
5 a nominee for Whitewater, and then it would therefore
6 be her personal property but that in selling it, she
7 went ahead and discharged the Whitewater obligation
8 which Whitewater was obligated to discharge, out of
9 the proceeds of the sale. That's what I believe.

10 Q What's the basis for that belief?

11 A The documents that I reviewed at various
12 times.

13 Q Okay. Just going through your handwritten
14 memo, there is now a discussion of Mr. McDougal's new
15 leather chair and Bill Clinton coming in and jogging
16 by.

17 A Oh, yes.

18 Q I believe this must be a discussion about
19 the retention of the Rose Law Firm by Madison
20 Guaranty. What do you recall Mr. McDougal saying
21 about the retention of the Rose Law Firm by Madison
22 Guaranty?

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1 A Well, it was curious. He had been
2 reasonably conversationally imprecise, as most
3 conversations are, up until this point. He told this
4 story in very precise terms, like it was something he
5 had rehearsed, and I am reasonably sure it was
6 Sheffield. And he said that he had bought this brand
7 new leather contoured chair, and that's the reason it
8 was imprinted on his memory and he distinctly
9 remembered Clinton jogging by and coming in, and
10 lying down on his chair, and the salt on his sweaty
11 body leaving a stain on the chair.

12 Q This would have been at the Madison
13 Guaranty offices in Little Rock?

14 A I believe that's what --

15 Q Which is fairly across to the governor's
16 mansion, is that correct?

17 A I have never known exactly where the
18 Madison offices were.

19 Q You know where the governor's mansion is?

20 A I do.

21 Q You never drove by the Madison Guaranty
22 offices?

1 A I never paid any attention to it if I did.
2 There are dozens of banks and savings and loans and
3 various entities down there, none of which I deal
4 with. The only ones I deal with are Worthen and
5 Union. I never paid any attention to them.

6 Q What more did --

7 A Maybe First Commercial.

8 Q -- Mr. McDougal say about this incident
9 involving his leather chair?

10 A He then very explicitly said that. Well, I
11 wrote it down. I mean, it is what I said in my
12 notes. He claimed that Bill said they needed money,
13 that McDougal needed to give Hillary some legal
14 work. He said he thought one lawyer could screw up
15 deals as good as another. He had great contempt for
16 lawyers, incidentally, but admitted he was thinking
17 of deeds, contracts, et cetera.

18 He said it wasn't two hours later that
19 Hillary came by to set up the retainer. He said that
20 he and Susan McDougal joked about giving Hillary
21 legal business.

22 Q Did he say anything more about the

1 retention of Madison -- of Rose by Madison?

2 A At that time?

3 Q Yes.

4 A No.

5 Q At any later time?

6 A At a later time according to press
7 accounts, he rescinded this story and denied it.

8 Q Do you recall in what press accounts he
9 denied this story?

10 A No, but I recall reading it and I am sure
11 you could LEXIS, NEXIS, find it.

12 Q Did you discuss the retention of Rose by
13 Madison with Mr. Heuer after the March 11, 1992
14 meeting?

15 A I don't believe so.

16 MR. COLE: Go off the record for a minute.
17 (Discussion off the record.)

18 BY MR. GIUFFRA:

19 Q Now you asked Mr. McDougal to stop talking
20 to the press at this meeting?

21 A I did.

22 Q What did you say to him about stop talking

1 to the press?

2 A I told him he ought to quit.

3 Q What else do you recall about any
4 conversations you had with Mr. McDougal about his
5 conversations with the press at this meeting on March
6 11, 1992?

7 A Well, I asked him if he would quit talking
8 to the press. He said he would, but indicated he
9 didn't want to be bashed in the press, that he had
10 been through a lot of things and he could be vicious
11 if he felt we were mistreating him.

12 Q What did he mean "he could be vicious if he
13 felt we were mistreating him"?

14 A I took it as a threat he would do something
15 to try hurt the campaign.

16 Q Did Mr. McDougal indicate he had any
17 additional information he might provide to the press
18 about the Clintons?

19 A No, but he understood I knew he was capable
20 of making it up.

21 Q Did he in any way indicate that there was
22 anything else, any other charges he might level

1 against the Clintons?

2 A No.

3 Q Did he indicate in any way the Clintons had
4 been involved in any wrongdoing at this meeting?

5 A No. No.

6 Q Now, you discussed an entity called Madison
7 Marketing with Mr. McDougal?

8 A Yes.

9 Q What did Mr. McDougal say about Madison
10 Marketing?

11 A He said Madison Marketing was an affiliate
12 because it was owned by Susan and it was not a
13 subsidiary of Madison Guaranty, and that Gerth had
14 gotten the story wrong.

15 Q How had Mr. Gerth gotten the story wrong?

16 A Because he said there was money that went
17 from Madison Guaranty into Whitewater and McDougal
18 told me that wasn't true.

19 Q McDougal told you the money went into
20 Whitewater through what entity?

21 A Well, I don't know. I mean, my notes are
22 what I remember and I wrote them right after the

1 meeting.

2 Q And that indicates that he told you that
3 the money came from -- went into Whitewater through
4 Madison Marketing?

5 A I'm not sure that's what that says, but the
6 notes say what they say. I mean, that's what he
7 said.

8 Q The notes say "the money was from Madison
9 Marketing."

10 A Where does it say that?

11 Q It says that on the last line on the third
12 full paragraph.

13 A It does, you are right. That must be what
14 he told me.

15 Q Do you recall anything else about that
16 statement?

17 A Not that I recall.

18 Q This discussion of Madison Marketing was in
19 the context of a discussion about David Hale?

20 A No. I was not aware at that time that
21 David Hale was even involved.

22 Q Was it your understanding that money had

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1 gone from Madison Guaranty into Madison Marketing and
2 then into Whitewater?

3 A No.

4 Q Did you have any other understanding about
5 Madison Marketing and its significance in terms of
6 Whitewater?

7 A No. At some point, and I -- in fact, I had
8 some confusion over it. At some point, I was under
9 the belief it was a fictitious name, and there was
10 something called Master Marketing, and there was some
11 question as to what its actual corporate name was and
12 there was some question as to when it was owned by
13 Susan McDougal. But I never did have cause to sort
14 all that out.

15 Q Had there been a discussion of Madison
16 Marketing within the campaign prior to your meeting
17 with Mr. McDougal on March 11, 1992?

18 A No, not that I recall, no. None that I was
19 a party to.

20 Q Do you know why you would have raised the
21 issue -- did you raise the issue of Madison Marketing
22 or did McDougal?

1 A I think it is from Gerth's story, which I
2 am sure you have and if you look at it, you can
3 tell. But I would think that it's because it was
4 something that Gerth had raised.

5 Q Now, do you recall the date that
6 Mr. Gerth's story came out in the press?

7 A No.

8 Q Was it several days before this meeting
9 with Mr. McDougal?

10 A I can't tell you now. I mean, you are
11 sitting there with a copy of it. I just don't know.

12 Q Was it before your meeting with
13 Mr. McDougal?

14 A I don't know.

15 Q Do you recall any meeting -- any discussion
16 within the campaign about Mr. Gerth's article?

17 A Yes.

18 Q What do you recall about such discussion at
19 the campaign?

20 A People were running up and down the halls
21 saying did you see what this lying son of a bitch has
22 done now.

1 Q Now, there is a discussion on the fourth
2 full paragraph of your memo where Mr. Heuer indicates
3 that "he would need experienced help on the case"?

4 A Yes.

5 Q What was Mr. Heuer referring to?

6 A Suing Gerth and The New York Times for
7 libel.

8 Q Did you then attempt to -- did you make any
9 efforts to locate counsel for Mr. McDougal?

10 A No. Because they dropped that within a day
11 or two. I -- I said I would, and I would have, but I
12 never did.

13 Q Now, there is a discussion in your notes
14 about Mr. McDougal asserting that Mr. Latham had
15 created phony board minutes at Madison?

16 A Right.

17 Q What do you recall about that discussion?

18 A I don't think I recall anything other than
19 the way I set it down. It was toward the end of the
20 conversation and McDougal was talking about his
21 acquittal, he said he wasn't running Madison Guaranty
22 at that time, he had hired a lawyer to run it, that

1 the lawyer's name was Latham.

2 Q Do you recall anything more about that
3 portion of the discussion?

4 A Well, he did say that Latham created phony
5 minutes at the savings and loan and paid himself
6 unauthorized bonuses and that a woman whose name I
7 didn't recall even then, but I believed it was
8 something like Pat or Peggy Heritage, had forged
9 McDougal's signature and that she was now working for
10 the Rose Firm, and held ill will towards the
11 McDougals and perhaps others.

12 Q Do you recall anything more about that
13 portion of the conversation?

14 A No.

15 Q Now, you attempted to be as accurate as you
16 could be in preparing this memo to files --

17 A I tried to put -- I started to even try to
18 put it down in more verbatim form, but I really tried
19 to cover everything in as great detail as I could
20 recall.

21 Q You didn't leave anything out that you can
22 recall?

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1 A Not that I recall.

2 Q Did you write this memo immediately after
3 your meeting with Mr. --

4 A I think virtually immediately.

5 Q Did you ever speak to Mrs. McDougal during
6 the campaign?

7 A Never.

8 Q Do you know whether Mr. Heuer ever spoke to
9 Mrs. McDougal during the campaign?

10 A I don't know.

11 Q Did you ever speak to Mrs. McDougal's
12 lawyer during the campaign about Whitewater or
13 Madison?

14 A No.

15 Q Now you mentioned --

16 A She was somewhere in California, but I
17 don't know where she was.

18 Q You mentioned that you had a number of
19 conversations after March 11, 1992 with Mr. Heuer.
20 Do you recall approximately how many conversations
21 you might have had with him?

22 A If you would run your LEXIS, NEXIS and

1 every time there was a comment from McDougal or every
2 time McDougal appeared on television or every time
3 something happened, I probably called Heuer. So, I
4 guess a half a dozen times, but I don't recall.

5 Q Do you recall anything about those
6 conversations with Mr. Heuer?

7 A Usually it was how come you can't keep him
8 under control, here he's gone amok again. I heard
9 Heuer say, well, he must have screwed up his
10 medication.

11 Q During any of those -- strike that.

12 The six conversations with Mr. Heuer, those
13 would all have occurred during 1992?

14 A I understood your question to be during the
15 campaign and the campaign was over at least by
16 midnight on the first Tuesday after the first Monday
17 in November.

18 Q After the campaign, did you have any other
19 conversations with Mr. Heuer?

20 A Oh, certainly.

21 Q About Mr. McDougal?

22 A Probably.

1 Q Do you recall approximately how many?

2 A Well, I -- I called Heuer and said that I
3 thought that the Clintons and the McDougals needed to
4 be totally separated over the Whitewater thing --

5 Q This would have been after the campaign?

6 A Yes. I mean, I thought that's what your
7 question was.

8 Q Yes.

9 A And that it would be probably better if the
10 Clintons sold their interest to McDougal.

11 Q Now, have you ever discussed the sale of
12 the Clintons' interest in Whitewater with either --
13 with President Clinton?

14 A I don't think so.

15 Q Have you ever discussed -- is it possible
16 you may have discussed it with him?

17 A I don't think so. I -- they were in the
18 middle of the transition, and I decided it had to be
19 done, probably an idea I generated myself. Vince
20 Foster was the one that secured their signatures on
21 the agreement. I don't believe I ever talked to
22 them.

1 Q Do you know whether Mr. Foster spoke to the
2 Clintons about the selling of Whitewater?

3 A Well, I would think he would have had to
4 some extent because he got their signatures on the
5 agreement. And most people, but not all people, when
6 they are -- something is stuck in front of them and
7 you say sign it, they ask what it is. I don't know
8 whether they did or not.

9 Q Did you ever talk with Mrs. Clinton about
10 the selling of the Clintons' interest in Whitewater
11 to Mr. McDougal?

12 A I thought I answered that.

13 Q I asked you Governor Clinton.

14 A No, not that I recall.

15 Q When you said you took it upon yourself to
16 arrange for the sale of the Clintons' interest in
17 Whitewater to Mr. McDougal, is that something you had
18 previously done for the Clintons in connection with
19 other matters?

20 A Well, it is not unusual for me to do that
21 for any client, but I don't recall having done that
22 specifically for the Clintons.

1 Q I mean, without getting into the precise --
2 because you said you won't answer that question --
3 had you previously been described as a troubleshooter
4 for the Clintons on legal matters between '74 and
5 '92?

6 A I will concede that.

7 Q Have the Clintons ever paid you any legal
8 fees?

9 A They made me executor of their will.

10 Q So your testimony would be you have never
11 been paid by the Clintons for any legal services you
12 might have performed by them?

13 A I have never been paid by any close friends
14 for legal services I rendered and I have never billed
15 any close friend.

16 Q Without getting into the matters you would
17 have provided legal services to the Clintons --
18 strike that.

19 Do you know, if you had to estimate the
20 amount of time you would have spent providing legal
21 services to the Clintons between 1974 and 1992, could
22 you venture an estimate?

1 A Not a significant amount, and I realize
2 that "significant" has now gotten a lot of people's
3 opinion, but in my opinion, not a significant
4 amount.

5 Q Less than 500 hours of work?

6 A Certainly less than 500.

7 Q Less than 200 hours of work?

8 A Yes.

9 Q About a hundred hours of work?

10 A I -- I hadn't thought about it.

11 Q If you were to estimate the amount of time
12 you would have spent handling legal matters for the
13 Clintons between 1974 and 18992, how much time do you
14 think you would have spent?

15 A Not a lot.

16 Q Can you give us a quantified number?

17 A No.

18 Q You said less than 200, though?

19 A I am sure it is less than 200.

20 Q More than 50?

21 MR. GREEN: That's where we are, less than
22 200.

1 THE WITNESS: Yes, that's the best I can
2 do.

3 BY MR. GIUFFRA:

4 Q How much time did you spend on the 1992
5 campaign working on legal matters for the Clintons?

6 A Well, in my opinion, I was working for the
7 campaign and not the Clintons.

8 But, even then, it was probably less than
9 200 hours.

10 Q Turning back to selling the Clintons'
11 interest in Whitewater to Mr. McDougal, what do you
12 recall about the communications you had Mr. Heuer
13 about the selling of that interest?

14 A Well, I recall saying, you know, Whitewater
15 has all this wonderful tax loss carry forward and if
16 McDougal ever got back in the development business
17 that it would be a value to McDougal, it wouldn't be
18 of any value to the Clintons. And he laughed and
19 said, McDougal's got more tax loss carry forwards
20 than he could ever possibly use up, so that argument
21 didn't work.

22 And then I recall saying, you know, there

1 is a little trickle of money from some escrow
2 agreements that was supposed to be going originally
3 to pay off Whitewater loan and then should have been
4 going into the corporation and for some time McDougal
5 has been taking that. He might as well take it
6 legally by owning all of Whitewater.

7 Q Do you recall approximately how much money
8 that would be?

9 A A few hundred dollars a month.

10 And he agreed that had some benefit. And
11 finally I said, you know, I'm not asking you to pay a
12 lot of money here, I will accept a nominal amount. I
13 think we settled on a thousand dollars as an
14 appropriate nominal amount.

15 Q Were you the person who determined the sale
16 price should be a thousand dollars?

17 A Yes.

18 Q And what basis did you have for selecting
19 \$1000 as the sale price?

20 A It had a nice ring to it. It sounded like
21 an appropriate nominal amount.

22 Q Did you ever discuss the \$1000 figure with

1 anyone other than Mr. Heuer?

2 A Well, I probably discussed it with Vince,
3 because Vince and I exchanged drafts of the
4 settlement agreement and it was -- I am sure at some
5 point in the agreement.

6 Q Who would have prepared the settlement
7 agreement?

8 A I don't remember now whether I did a draft
9 or whether Vince did a draft or whether Heuer did a
10 draft, but I know we circulated drafts among us.

11 Q Did you recall anything about the
12 conversation you had with Mr. Heuer about the \$1000
13 sale price?

14 A At that point, no.

15 Q Did you have a conversation with Mr. Foster
16 about it?

17 A We're talking prior to December 22 now?

18 Q Yes.

19 A Possibly, just told him what I'd done or
20 the figure I'd arrived at.

21 Q Did you have any conversations with
22 Mr. Foster about the \$1000 sale price after December

1 22, 1992?

2 A I think I may have had a conversation on
3 December 22.

4 Q And that was the date of the closing?

5 A Yes.

6 Q Do you recall anything about that
7 conversation?

8 A Well, the whole scenario, to put it as
9 briefly as I can, is that I was going to fly down and
10 close the transaction.

11 Q You were going fly from Fayetteville down
12 to Little Rock?

13 A Yes. And my plane was fogged in. The
14 plane couldn't land at Little Rock. So I called
15 Vince and asked Vince if he would go over and close
16 the deal. He agreed to do that, and then after he
17 got over to Heuer's office, he called me or Heuer
18 called me and we had various conversations on the
19 phone on various issues, the one on the thousand
20 dollars, as I recall it, was, Heuer said we've just
21 got one problem, McDougal doesn't have a thousand
22 dollars.

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1 And I said, well, what the heck, I will
2 loan him the thousand dollars. I'll just Fed Ex you
3 a check to your trust account. And I believe that's
4 what I did.

5 Q Was Mr. Foster on the conversation?

6 A He took the position that he was there to
7 close the deal, but not there to negotiate. Any time
8 it involved negotiations, he would leave the room.

9 Q Why did he take that position?

10 A Unfortunately, we can't ask him. I don't
11 know.

12 Q You don't have any understanding as to why
13 he might have taken that position? Did he say
14 anything to you, for example?

15 A No, he just -- he was adamant that he
16 wasn't -- that I had to do the negotiation. He
17 wasn't going to do the negotiation.

18 Q You didn't ask him why he didn't want to
19 have anything do with the negotiation?

20 A No.

21 I'm sure you know Vince had been my law
22 clerk, a law clerk for my law firm when he was in law

1 school. Vince was a tightly wound guy with his
2 idiosyncrasies and I don't -- I didn't ask him.

3 Q Let me show you a document, it doesn't
4 appear to have a Bates number, a check from James
5 Blair to the order of Sam Heuer, trustee for Jim
6 McDougal in the amount of a thousand dollars dated
7 December 22, 1992.

8 A Okay.

9 Q Is that the check you sent to Mr. Heuer?

10 A Yes, it is.

11 Q Now, you indicated that you were loaning
12 Mr. McDougal a thousand dollars to buy out the
13 Clintons?

14 A Right.

15 Q Was Mr. McDougal at the closing?

16 A Yes.

17 Q He was aware that you were giving him a
18 thousand dollars?

19 A How can I answer that question? I don't
20 know what McDougal was aware of.

21 Q Was McDougal on the telephone call?

22 A Yes. At least at some times. It was on

1 the speakerphone, at some point, he was, yes.

2 Q And when you said, well, I will loan you
3 the thousand dollars, did McDougal say anything?

4 A No.

5 Q Did Mr. Heuer say anything?

6 A Yes, he said that will work, send the
7 check.

8 Q Was there any kind of an agreement entered
9 into between Mr. McDougal and yourself with regard to
10 this thousand dollars?

11 A Well, I assumed that if he ever could pay
12 me back, he would, and then I had a considerable
13 doubt as to whether he would ever be able to, but I
14 felt if he could, he would.

15 Q Has Mr. McDougal ever repaid you the
16 thousand dollars?

17 A He -- in my opinion, he has never been able
18 to, and no, he hasn't.

19 Q Is there any interest on this loan charged?

20 A I've frequently loaned money to friends and
21 I've never charged them interest, and no, I didn't
22 discuss interest.

1 Q And --

2 A If he wants to pay me interest, he could or
3 if he didn't, he didn't have to.

4 Q Was Mr. Foster aware you were paying the
5 thousand dollars to Mr. McDougal?

6 A I don't know.

7 Q Did anyone else -- was anyone else aware
8 that you -- strike that.

9 After the 22nd, December 22, 1992 closing,
10 was anyone else aware that you had given McDougal the
11 thousand dollars needed to buy out the Clintons'
12 Whitewater investment?

13 A No.

14 Q Did you ever disclose that fact to anyone
15 prior to disclosing it to, I think, AP sometime in
16 recent months?

17 A I may have hinted gently to Kendall that I
18 did that. I don't know that I did that, but I may
19 have, which would explain the reference in Bill
20 Kennedy's notes about the speculation that I might
21 have done that.

22 Q Ever discussed the fact that you had given

1 a thousand dollars to Mr. McDougal with Mr. Lindsey?

2 A I don't think so.

3 Q Did you ever discuss it with Mr. Kennedy?

4 A With -- no.

5 Q Did you ever discuss the fact that you had
6 given Mr. McDougal a thousand dollars with either of
7 the Clintons?

8 A No.

9 Q Did you have any belief that you might have
10 had an obligation to report -- strike that.

11 Did you have any understanding as to
12 whether the Clintons might have had an obligation to
13 report this thousand dollars loan to Mr. McDougal as
14 a gift?

15 A Obviously, they wouldn't have such an
16 obligation. They reported it as a capital gain, as a
17 capital sale.

18 Q Did you consider whether the Clintons had
19 any obligation to report the thousand dollars that
20 you provided to Mr. McDougal as a gift?

21 A I have considered that and my unequivocal
22 answer is no, they did not.

1 Q Why do you believe they did not have an
2 obligation?

3 A Because it wasn't a gift to them. It was a
4 loan to McDougal.

5 Q That you have never been repaid on?

6 MR. GREEN: That has been asked and
7 answered.

8 BY MR. GIUFFRA:

9 Q Did you have any expectation at the time
10 you made the loan to Mr. McDougal that you would be
11 repaid?

12 MR. GREEN: That's been asked and
13 answered. Come on Bob, let's move on. He told you
14 exactly what his arrangement was.

15 BY MR. GIUFFRA:

16 Q The answer is no, you didn't have any
17 expectation you would be paid back?

18 A My answer hasn't changed.

19 Q What is your answer?

20 A Read it in the record.

21 MR. GREEN: It is on the record.

22 MR. GIUFFRA: That question has not been

1 asked before.

2 MR. GREEN: We think it has, so just ask
3 another question.

4 MR. GIUFFRA: Why don't you go back.

5 (The reporter read the record as requested.)

6 MR. GIUFFRA: I apologize. You can put
7 that on the record.

8 MR. TAYLOR: You need to accept his
9 apology.

10 THE WITNESS: I accept.

11 BY MR. GIUFFRA:

12 Q What more do you recall about the closing
13 of the sale of the Clintons' interest in Whitewater
14 to Mr. McDougal?

15 A Well, an issue came up about the tax
16 returns on Whitewater and on the corporation, and
17 McDougal wanted our side to prepare the tax returns,
18 as I recall, for three years, and I don't remember
19 exactly what the three years were, but I believe they
20 may have been '90, '91 and '92.

21 And I asked that -- they had Vince step
22 back in the room and he did, and I asked Vince how

1 long he thought it would take to prepare the returns,
2 and as I recall, he said 30 to 45 days. I asked him
3 to step back out of the room, since he wouldn't be
4 involved in negotiations. And I got an agreement
5 with them, they would give us 60 days to prepare the
6 tax returns. And then McDougal threw another block
7 in the deal and said, that he wouldn't sign it and he
8 wouldn't do it unless I personally guaranteed that
9 the returns would be done. And my recollection is I
10 prepared some kind of a one-page guarantee and faxed
11 it to him.

12 Q Let me show you a document Bates numbered
13 69 and 70.

14 A That's the document I referred to.

15 Q This is the document?

16 A Yes.

17 Q Now if you could look at page 69, was this
18 a cover, is this a --

19 A No, these documents don't belong together.

20 MR. COLE: What numbers are we looking at
21 again, Bob?

22 MR. GIUFFRA: 69 and 70.

1 THE WITNESS: We are looking at 69 and 70
2 and they have been erroneously attached to each
3 other. They don't belong together.

4 BY MR. GIUFFRA:

5 Q Do you know what document might have been
6 faxed to you, along with the cover sheet bearing
7 Bates number 69?

8 A I would believe it would be a draft of the
9 settlement agreement itself but the date, the date of
10 the cover sheet is the 15th of December, and the date
11 of my guarantee is the 22nd, so they obviously don't
12 belong together.

13 MR. COLE: If you go a few more pages into
14 the document, 73 through 78 there is a copy of the
15 agreement attached to a fax cover sheet from the Rose
16 Law Firm that looks similar to that one so that may
17 help with the mystery.

18 BY MR. GIUFFRA:

19 Q Do you recall anything more that might have
20 occurred at the closing?

21 A No.

22 Q Now, did you endeavor to prepare the tax

1 returns for Whitewater Development Corporation?

2 A I either called or asked Vince to call an
3 accountant by the name of Yoly Redden, I don't
4 remember the name of the accounting firm, and she was
5 to have the returns prepared.

6 Q When you spoke to Mr. Foster, was he at the
7 White House at that time?

8 A Not then, but ultimately he was at the
9 White House.

0 Q You would have spoken to Mr. Foster
1 sometime shortly after the closing?

2 A Yes.

3 Q And who is Ms. Redden?

4 A She is an accountant in Little Rock.

5 Q She was the Clintons' accountant?

6 A Yes.

7 Q Now, do you know whether Ms. Redden ever
8 prepared these tax returns for Whitewater Development
9 Corporation?

0 A Ultimately, yes. On time, no.

1 Q When did she prepare the tax return?

2 A Well, I can't tell you exactly, but I

1 believe I sent them to Heuer about June of '93.

2 Q Do you know who paid Ms. Redden for
3 preparing the tax returns?

4 A I don't know if anybody did, but I didn't.

5 Q Do you know whether the Clintons paid for
6 these tax returns?

7 A I would suspect they did, but I don't know
8 that.

9 Q Now, did there come a time when Mr. Heuer
0 complained to you about the fact that the tax returns
1 had not been prepared?

2 A Well, that's not the way it arose.

3 Vince called me from the White House, and
4 told me that McDougal had called him.

5 Q Did Mr. Foster indicate he had spoken to
6 Mr. McDougal?

7 A Did not. And I don't know whether he did
8 or not or whether simply that McDougal had called up
9 there.

0 But what Vince said to me was he didn't
1 want McDougal thinking that he could be calling the
2 White House. And I told Vince that he should forget

1 it, that I would take care of it. And I then called
2 Ms. Redden and chewed her out for not getting the
3 returns done. And she said that some of her people
4 had been on vacation and there were various reasons
5 why it wasn't done, but it would be done shortly.

6 Q Did you have any other conversations with
7 Mr. Foster about the tax return issue?

8 A I don't think so. I -- it may -- when they
9 were done, she wanted to send them to Vince and I
10 didn't want her to send them to Vince, and she, I
11 think, wanted Vince to tell her to send them to me.
12 And I might have called Vince and asked him to call
13 her and tell her to send them to me, but I -- I don't
14 know exactly how that happened, but I know there was
15 an issue about it.

16 Q Do you know whether Mr. Foster ever
17 reviewed the Whitewater Development Corporation tax
18 returns?

19 A I don't believe he ever did these three
20 years. I don't believe he ever had them in his
21 position.

22 Q Did you ever send any documents to

1 Mr. Foster at the White House?

2 A Never.

3 Q Do you recall any communications you might
4 have had with Mr. Heuer about the tax returns?

5 A Well, at some point and I believe it was
6 approximately early June, I -- yes, I had, after my
7 conversation with Vince, told Heuer I would get the
8 returns and finally got Ms. Redden to turn the
9 returns over to me and I sent them to Heuer.

10 Q Did you review the returns?

11 A Yes.

12 Q And you determined they seemed to be in
13 order?

14 A Well, the -- my recollection is that there
15 was an enormous tax carry forward and there is no way
16 that Whitewater would owe any taxes. At least that's
17 true on a federal basis; it might not have been true
18 on a state basis, they may have owed minimal state
19 taxes because the state does not recognize carry
20 forwards.

21 And that there was a trickle of income
22 which I believe was from these escrow contracts, and

1 that it was offset. And again, I think it was
2 something like \$500 a month. It was offset by the
3 loss carry forward and it looked to me like it was in
4 order.

5 Q Did you have any other conversations with
6 Mr. Heuer in 1993 about issues surrounding the
7 closing or the tax returns?

8 A I don't think so.

9 Q Do you know whether Mr. Foster spoke to
0 Mr. Heuer in 1993 about the tax returns or any other
1 Whitewater-related issue?

2 A I would not think so, but I don't know.

3 Q Did you discuss anything other than the
4 conversation you testified to about the tax returns,
5 did you have any other conversations with Mr. Foster
6 during 1993 having anything to do with Whitewater?

7 A No.

8 Q Did you have any conversations with
9 Mr. Foster about anything having to do with Madison
0 Guaranty?

1 A No.

2 Q Anything having to do with the Rose Law

1 Firm?

2 A No.

3 Q Let's just focus between the closing of
4 Whitewater which is --

5 A December the 22nd, 1992.

6 Q December 22 through July 20, 1993, which is
7 Mr. Foster's death, did you speak to anybody at the
8 White House other than Mr. Foster about anything
9 having to do with Whitewater, Madison, Rose Law Firm?

0 A I don't think so. Because I don't think it
1 was back in the press at that point.

2 After it was back in the press, I had a few
3 conversations with Bruce Lindsey, but I have already
4 testified to those, and other than that, no.

5 Q Have you ever spoken to Bernard Nussbaum
6 about anything having to do with Whitewater or
7 Madison?

8 A No.

9 Q Have you ever spoken to Mr. Kennedy about
0 anything having to do with Whitewater or Madison?

1 A No.

2 Q Did you have any conversations with

1 President Clinton between December 22, 1992 and July
2 20, 1993 about anything having to do with Whitewater,
3 Madison, Rose Law Firm?

4 A No.

5 Q Mrs. Clinton?

6 A No.

7 Q Do you recall any conversations you might
8 have had with anyone about Whitewater/Madison issues
9 between December 22, 1992 and July 20, 1993?

10 A In that time period, I don't think so.

11 Q Let me just show you, this is a document
12 bearing Bates number 327 to 329, it is a memo to
13 Whitewater Development file from Vincent Foster dated
14 December 30, 1992.

15 A I have seen it.

16 Q Was a copy of this provided to you by
17 Mr. Foster?

18 A I don't know where I got it, but I've seen
19 it and I think maybe I furnished it to you in my
20 document production.

21 Q Do you know why this memo was prepared?

22 A No. I don't.

1 Q Did you -- you didn't ask Mr. Foster to
2 prepare it?

3 A I did not.

4 Q Did Mr. Foster express any concern to you
5 about the fact that he would have to attend the
6 closing on December 22, 1992?

7 A He did not. He was very gracious.

8 Q And you have nothing further to add about
9 why Mr. Foster was excusing himself during portions
10 of the meeting?

11 A I have no idea what was going on in Vince's
12 mind.

13 Q I would like to show you a document which
14 bears Bates number 185 through 197. It is a letter
15 from Ms. Redden to Mr. Foster dated April 12, 1993.

16 A Yes, I see it.

17 Q Did you receive a copy of this letter?

18 A I may have.

19 Q Do you know anything about the
20 circumstances surrounding the preparation of this
21 letter?

22 A I think there was some argument about how

1 they report this thousand dollars, and as I recall --

2 Q "They" would be the Clintons?

3 A Yes.

4 Q Did you have any discussions with
5 Mr. Foster during the period December 22, 1992 and
6 July 20, 1993 about the issue of how the Clintons
7 should report the \$1000 they received from
8 Mr. McDougal?

9 A I don't recall.

10 Q Did you have any discussions with anyone
11 about the issue of how the Clintons should report the
12 \$1000 --

13 A I may have talked to Yoly Redden, I don't
14 recall. I did not think they had a gain. That was
15 my opinion. I don't remember now how it was
16 ultimately reported.

17 Q Why did you think the Clintons did not have
18 a gain?

19 A Because I believe they lost many thousands
20 of dollars in Whitewater.

21 Q Did you have any discussions with anybody
22 whether the Clintons should have reported a gain or

1 loss in Whitewater?

2 A I may have had a discussion with Yoly
3 Redden.

4 Q You don't recall speaking to Mr. Foster?

5 A I don't recall.

6 Q Did Ms. Redden ever speak to you about any
7 discussion she might have with Mr. Foster about how
8 the Clintons should report the \$1000 that they
9 received in connection with the sale of her stock in
10 Whitewater Development Corporation?

11 A I don't think so.

12 Q After receiving this letter dated April 12,
13 1993 from Ms. Redden, did you take any action?

14 A I don't think so.

15 Q Do you recall receiving the letter, though?

16 A I'm not even sure of that. I may have
17 acquired it in some other fashion. I don't know. I
18 was aware at some point there was a controversy.

19 Q Do you recall when you learned there was a
20 controversy?

21 A No.

22 Q Do you recall who might have alerted you to

1 the fact that there was a controversy?

2 A No.

3 Q Now, at the closing, you testified that
4 Foster left the room at various points. Do you
5 remember anything more about any conversations that
6 occurred between yourself and Mr. Heuer and
7 Mr. McDougal?

8 A The only things I recall we discussed were
9 the guarantee, the thousand dollars, the preparation
10 of the tax returns. The stuff that Vince refers to
11 about their corporate resolutions was not discussed.

12 Q Let me show you another document, 470 to
13 71.

14 A Okay.

15 Q This is a fax you sent to Mr. Heuer. It
16 appears to be dated January 11.

17 A Well, again, I think we've got two
18 documents put together that don't belong together.

19 Q You don't know what would have gone in
20 the --

21 A The letter from the accountant is dated
22 June 18th, 1993. The fax thing is dated January 11,

90

1 1993.

2 Q Do you know what document you might have
3 faxed to Mr. Heuer on January 11, 1993?

4 A No. No.

5 Q Do you know what subject matter that fax
6 might have been related to?

7 A It could have been a clipping out of The
8 New York Times, a clipping out of The Washington
9 Post, a clipping out of The New York Post, a clipping
10 out of --

11 Q Other than some newspaper clippings, do you
12 think that's what it was?

13 A Probably he didn't have access to all that
14 stuff and occasionally, particularly when they quoted
15 McDougal, I would send him stuff.

16 Q Do you believe that this fax was sent on
17 January 11, 1993, or could it have been sent on a
18 different date?

19 A I don't have any belief at all; call me
20 skeptic or agnostic.

21 Q Regarding the letter from Mr. Rogers, who
22 is the CPA to Mr. McDougal, what do you know about

1 that letter?

2 A I believe that letter was sent to me,
3 ultimately, and I believe I transmitted that letter
4 along with the returns to Heuer. But am I a hundred
5 percent positive? No, I'm not.

6 Q Do you recall anything more about the
7 preparation of this letter for the transmission of
8 the letter to McDougal?

9 A No.

10 MR. GIUFFRA: If we could ask your counsel
11 to -- if there are documents that we haven't obtained
12 that would have been sent with this fax that bears
13 the Bates number 470, if you could just check to see
14 whether you have it.

15 MR. GREEN: Okay.

16 MS. FISHER: Do you have a copy of this
17 where you could read the fax line to see if it was
18 sent in 1993 or 1994? The only reason I ask when you
19 are in January, people haven't changed over the
20 year --

21 MR. GREEN: I don't know. I couldn't tell
22 you.

1 THE WITNESS: Show it to W.H.

2 MR. TAYLOR: I will check it.

3 BY MR. GIUFFRA:

4 Q I will show you a document from Sue
5 Cathey-Jones to William Kennedy, bears Bates number
6 260 to 261. I think it is a document we found in
7 your files. Bates number 260, that's your Bates
8 number. Does that appear to be --

9 A I don't know.

10 THE WITNESS: That our number?

11 MR. GREEN: I don't know.

12 MR. TAYLOR: We are not having our
13 deposition taken.

14 BY MR. GIUFFRA:

15 Q Have you ever seen this document before? I
16 can represent this document was in the production we
17 obtained from you.

18 A Then I had better say yes. Yes.

19 Q Do you recall seeing the document?

20 A I have no specific recollection of --

21 Q Do you have a general recollection of this
22 document?

1 A -- seeing it, but, yes, I have a general
2 recollection of the subject matter of the document.

3 Q Do you recall ever seeing this document,
4 though? Did you see it during the campaign?

5 A Possibly. I don't --

6 Q Do you have any recollection as to how this
7 document might have come into your possession?

8 A No. I gathered up from a variety of
9 sources.

10 Q Did you ever attempt to obtain documents
11 from Mr. Kennedy during the course of the campaign?

12 A Not Kennedy, no.

13 Q Would have all been from Foster?

14 A Yes.

15 Q Did you attempt to obtain any documents
16 from Mr. Hubbell?

17 A No.

18 Q What general recollection do you have with
19 regard to this memo from Sue Cathey-Jones to
20 Mr. Kennedy dated May 31, 1991?

21 A That won't help me. What I remember is
22 that when McDougal gave, sold, transferred or

1 whatever you want to call it, the 22 lots of
2 Whitewater Development Corporation to Chris Wade or
3 one of his companies, Wade assumed an obligation of
4 \$35,000 of Whitewater indebtedness, that the sales of
5 some of these lots had escrow contracts pledged to
6 pay off that part of the indebtedness, that the sales
7 of other Whitewater Development lots were pledged to
8 the bank, the little trickle of escrow money to pay
9 off the indebtedness. And that at some point,
10 contrary to the agreement, and without telling the
11 Clintons, McDougal engineered a halt to the payments
12 to the banks and started taking the money himself.
13 And I believe that's what that letter has reference
14 to.

15 Q Was this an issue that came up during the
16 campaign?

17 A Yes.

18 Q And did you take any action with regard to
19 this issue during the campaign?

20 A If declining action is taking action, yes.

21 Q What action did you decline to take during
22 the campaign with regard to this matter of the --

1 A I think there was some discussion and
2 particularly I think maybe Susan Thomases wanted to
3 sue Chris Wade, wanted to jump on McDougal, wanted to
4 cut off this flow of funds. And I took the position
5 that McDougal was sick and broke, it was a minuscule
6 amount of money, I didn't think that anything should
7 be done about it and I didn't think it warranted, in
8 terms of a lawsuit, you would never get back the cost
9 of your money, your cost of litigation.

0 Q Approximately how much money was at issue,
1 on a monthly basis?

2 A I think about \$500. Could have been as
3 much as a thousand, but I don't think so.

4 Q Was there any discussion of what
5 consequences might flow from -- strike that.

6 Were you at all concerned that Mr. McDougal
7 might make allegations about the Clintons if you cut
8 off all his money?

9 A No.

0 Q Was there any discussion along those lines?

1 A No, I didn't think he was a predictable
2 figure, and he might make allegations or not without

1 any relevance to what was done or not done.

2 Q Was there any concern about that among
3 members of the campaign?

4 A No.

5 Q About McDougal perhaps making allegations
6 if you cut off the money by suing him?

7 A I don't think so.

8 Q Let me show you a document, bears Bates
9 number 38. See if it refreshes your recollection.

0 This is a document we have received from Susan
1 Thomases, some notes that she took dated March 4,
2 1992. It's got your name and then it says "Chris
3 Wade rescued by father-in-law from a deal that would
4 have put him in jail."

5 Do you know what that could refer to?

6 A I do now.

7 Q What do you believe -- do you recall saying
8 that to Ms. Thomases?

9 A No, I do not.

0 Q Do you recall any discussions along those
1 lines with Ms. Thomases?

2 A I don't. I think maybe she must have got

1 somebody else. I don't recall it, but -- you know, I
2 guess anything is possible. I just don't know.

3 Q It has your name right above --

4 A I can see that.

5 MR. GREEN: Does that refresh you?

6 THE WITNESS: Give that to W.H.

7 I don't think when I talked to Chris Wade
8 that I even knew he was in bankruptcy or he had been
9 in bankruptcy. I might be wrong, but I don't have
10 any recollection of that now. There was in that next
11 paragraph a discussion where I did feel that there
12 was something wrong with McDougal's selling these 22
13 lots for a theoretical consideration of \$60,000 to
14 Chris Wade, that there was something wrong with that
15 transaction. And I did believe that there was a
16 \$25,000 check to Chris Wade that came out of
17 Whitewater Development Corporation that ultimately
18 went back to McDougal personally.

19 BY MR. GIUFFRA:

20 Q What is the basis for your belief that
21 there was such a check?

22 A I guess I either saw stubs or I guess -- I

1 don't know whether I ever saw the check itself, but I
2 think maybe tracking check stubs.

3 There was a discussion about suing Chris
4 Wade and again, I was opposed to it, because I
5 thought it was a big distraction and I didn't think
6 that you would get the cost of your litigation back.

7 Q What more specifically do you recall about
8 this lawsuit, against -- who would bring the lawsuit
9 against Chris Wade?

10 A I think it would have to be brought in the
11 name of the Clintons or a derivative suit. They
12 might have as shareholders of Whitewater bring it in
13 the name of Whitewater.

14 Q What would be the nature of this cause of
15 action against Mr. Wade?

16 A That the transfer of those 22 lots was an
17 ultra vires act and should be set aside, and --

18 Q Would the transfer have been ultra vires?

19 A It was by far the -- virtually the
20 remaining assets of the corporation, and good lawyer
21 that you are, you know that officer of the
22 corporation without approval of the shareholders

1 can't dispose of the major assets of the
2 corporation.

3 Q And Mr. McDougal presumably would have been
4 a defendant in this action?

5 A I think so.

6 Q Who was it who first raised the issue of
7 suing Mr. Wade and Mr. McDougal?

8 A It was Susan or me. I think it was Susan.

9 Q Do you recall anything more that
0 Ms. Thomases might have said about the idea of suing
1 Mr. McDougal? Would it have been a suit against both
2 of them?

3 A Well, I don't know -- there were
4 discussions about suits against both of them, now,
5 not for less of the same things, but for some degree
6 for the same things.

7 Q What else would have been the nature of the
8 conversation against Mr. Wade?

9 A Excess commissions on the sale of the real
0 estate.

1 Q Specifically which sale of real estate?

2 A The first 10 or 15 lots, so the commissions

100

1 were out of line with the amount of the sale.

2 Q In terms of the percentage of the
3 commission?

4 A Yes.

5 Q And what would be the nature of action
6 against Mr. McDougal?

7 A Well, one, he was taking corporate money
8 without accounting for it. And two, he had
9 participated in the virtual giveaway, way below
0 market value, of the major assets of the corporation.

1 Q And what was the basis for your belief that
2 the market value of those 22 lots was higher than
3 what Mr. Wade paid for them?

4 A The price that the lots sold before these
5 lots were transferred, and the price he got for some
6 of these lots after they were transferred.

7 Q Did you ever discuss the idea of a lawsuit
8 against Mr. Wade or Mr. McDougal with either of the
9 Clintons?

0 A No.

1 Q Did you ever discuss this lawsuit with
2 anyone other than Ms. Thomases?

1 A I might have discussed it with Vince.

2 Q Now, this -- Mrs. Thomases's notes indicate
3 that the deal that would have put him in jail, you
4 said you now know what that deal is, what deal was
5 that?

6 A It is an accusation of bankruptcy fraud,
7 which is an accusation that his father-in-law held
8 assets that really belonged to Chris Wade, and they
9 were not disclosed in his bankruptcy proceedings.

10 Q You learned about this action through press
11 accounts?

12 A Well, I see her notes saying that
13 apparently she had that from me. I sure don't recall
14 it, and as far as I know, I didn't know it until the
15 press accounts.

16 Q Is it possible you might have known it
17 prior to the press accounts?

18 A It is possible.

19 Q Do you know where you might have gotten the
20 information from?

21 A Well, I did go to Flippin and I did walk
22 around Flippin, but Flippin is not the kind of town

1 where somebody would come up and tell you that sort
2 of thing, but I don't know.

3 Q When did you go to Flippin, during the
4 campaign?

5 A Yes.

6 Q What did you do in Flippin? Was that in
7 connection with your work on the campaign?

8 A Yes.

9 Q What did you do in Flippin?

10 A I interviewed Chris Wade, I interviewed
11 Rosalie Wade, I got them to give me copies of escrow
12 contracts.

13 Q Did you do anything else?

14 A Well, I pumped them for all the information
15 I could get out of them and I got all the copies of
16 all the documents I could talk them out of.

17 Q Do you recall when it would have been that
18 you met with the Wades?

19 A Spring of 1992.

20 Q Did you provide any money indirectly or
21 directly to the Wades?

22 A I did not.

1 Q Do you know whether anyone else connected
2 with the campaign or otherwise might have provided
3 money to the Wades?

4 A Not to my knowledge, and I don't believe
5 that such occurred.

6 Q Did Mr. Wade ask for any money from you or
7 from the campaign?

8 A No. No.

9 Q Or from the Clintons?

10 A No.

11 Q What do you recall Mr. Wade saying to you
12 when you spoke to him during the course of his
13 interview?

14 A Well, one of the issues that came up was
15 that he still had not discharged his obligation on
16 the \$35,000, which he had assumed responsibility for,
17 as an indebtedness of Whitewater. And he said he
18 hadn't been able to pay it, but that he would. I
19 jumped him about the excess commissions. And he said
20 that he had supervised the building of roads and
21 things, and this was simply a way of getting back to
22 him some compensation which he felt he had earned.

1 Q Did Mr. Wade say anything more?

2 A I asked him about the conveyance of the 22
3 lots and he said that McDougal was just tired of the
4 deal and bored with it and had bigger things, and so
5 he just -- it was a chance to get him for whatever
6 McDougal would give them away for.

7 Q Do you recall anything else you might have
8 discussed with either of the Wades during this
9 interview?

10 A Not right now.

11 Q Did the role of the Clintons in Whitewater
12 Development Corporation come up in the course of
13 interviews with the Wades?

14 A Probably.

15 Q What do you recall Mr. Wade saying about
16 the Clintons' role in Whitewater?

17 A That they had nothing to do with it, prior
18 to probably something like '86, '87. That at some
19 point McDougal had a nervous breakdown and that they
20 tried to work with Hillary and -- in being sure that
21 lands that had gone delinquent for real estate taxes
22 because the escrow debtors hadn't paid the taxes,

1 that the taxes were paid and that -- they may have
2 given me copies of correspondence they had with her
3 in that record.

4 That -- that's all I recall.

5 Q Anything further -- no further discussions
6 of what the Clintons' role was?

7 A I don't recall.

8 Q Did Mr. Wade indicate to you he had spoken
9 to McDougal about what the Clintons' role was with
10 regard to Whitewater?

11 A Mr. Wade and McDougal were, if you will
12 pardon the expression, thick as thieves. I don't --
13 I mean -- I have no idea what they discussed, but
14 they were in constant contact.

15 Q You don't recall anything more about what
16 Mr. McDougal might have said to Wade, though, about
17 what the Clintons' role in Whitewater was?

18 A None of that was revealed to me.

19 Q Do you have any knowledge as to how
20 Mr. Wade was able to pay some of the mortgage on this
21 Whitewater-related note?

22 A No. I leaned on him some, I called him

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1 three or four times and asked him how he was doing
2 about coming up with the money and what he was doing
3 about paying it.

4 And --

5 Q How much was outstanding, about \$35,000?

6 A No, by this time it was something less
7 than -- it was low teens, I think it was 13, 14,000.

8 Q And you were concerned about whether the
9 note was going to be paid because the Clintons were
10 obligors on the notes?

11 A The Clintons were obligors on the note. He
12 had contractually agreed to pay the note. I wanted
13 him to keep his word and pay the note.

14 Q Do you know whether he eventually did pay
15 the note?

16 A As far as I know, he did.

17 Q Do you know where he got the money to pay
18 the note?

19 A I have no idea.

20 Q Have you ever discussed with anyone where
21 Mr. Wade may have gotten the money to pay the note?

22 A No.

1 Q You have absolutely no understanding as to
2 how he got the money to pay the note?

3 A I do not.

4 Q Do you know whether anyone in any way
5 connected to the Clintons provided any funds to
6 Mr. Wade to pay this note?

7 A I have absolutely no reason to believe
8 that.

9 Q So you had a number of conversations with
10 Mr. Wade about the note. And he indicated to you
11 that he was going to pay the note?

12 A Yes.

13 Q When did you finally learned that he had
14 paid the note?

15 A Something like May of 1992, I think.

16 Q Do you know why Mr. Wade paid the note?

17 A Because he owed it.

18 Q But he was in bankruptcy in other
19 respects. He wasn't in bankruptcy?

20 A Where are you from?

21 Q Excuse me. Let's go off the record.

22 (Discussion off the record.)

1 MR. GIUFFRA: Let's go back on the record.

2 BY MR. GIUFFRA:

3 Q Your belief is that Mr. Wade paid this note
4 off notwithstanding the fact that he was in
5 bankruptcy, because -- what was your reason?

6 A I believe it is because he is part of the
7 hill culture of the Ozark hills, where a man's word
8 is his bond. Even if the law says you don't have to
9 pay, if you promise to pay, then you do what you said
10 you would do. And they don't use bankruptcy as a
11 shield to cheat their creditors, they use it to gain
12 time to pay their creditors.

13 Q Do you know -- strike that.

14 Do you know whether anyone has provided any
15 financial benefits to Mr. Wade or his wife -- strike
16 that.

17 Do you know -- have you ever provided any
18 funds of any nature to Mr. Wade or his wife?

19 A I have not.

20 Q Do you know whether anyone connected with
21 the Clintons has ever provided any financial benefits
22 to Mr. Wade, not just to pay the note off, but in

1 connection with -- something that might be related to
2 the paying off of this note?

3 A I do not and have no reason to believe such
4 occurred.

5 Q Was there any discussion during the 1992
6 campaign of taking steps to pay off this note?

7 A I probably told Loretta, and perhaps Jim
8 Lyons and perhaps Susan and maybe even Betsey, that I
9 was trying to get the note paid off.

10 And that Chris had said he would pay it.

11 Q Did you indicate to them that perhaps the
12 Clintons might have to pay off the note?

13 A I don't know that -- that I did, but it is
14 possible that I did.

15 Q You don't know anything else about the
16 circumstances surrounding Mr. Wade's paying off this
17 loan, the balance of this loan of approximately
18 \$13,000?

19 A I have told you all I know.

20 Q Did you have any conversations with
21 Ms. Thomases during the campaign in which he asked
22 you to call Mr. Wade to discuss a plane that was

1 given --

2 A It is very possible. There was a lot of
3 press excitement over the airplane.

4 Q Let's -- what do you know about this
5 airplane?

6 A Well, I know that it was an old airplane.
7 I know that it was owned by something called Ozark
8 Air Service.

9 Q Which was run by Mr. Wade.

10 A And I believe Mr. Wade at one time was half
11 owner and later entire owner. I don't recall who
12 owned the other half, but in the transfer of the 22
13 lots to Chris Wade or one of his entities, the
14 exchange was the assumption of a \$35,000 debt and the
15 transfer of the title of this airplane. This
16 airplane was apparently flown by someone, and I do
17 not know who, to Central Air Service. And I don't
18 believe that the funds obtained for it ever went into
19 Whitewater Development Corporation. And I believe
20 McDougal made off with the money.

21 Q Do you know when the Clintons first learned
22 of the transaction involving the sale of the 22 lots

1 to Wade?

2 A I don't know that they ever have. I know
3 that Ms. Clinton says she does not read the papers.
4 I think that anybody that reads the papers would
5 know, but I don't know to this day they ever have.

6 Q By the way, have you ever discussed with
7 Mrs. Clinton the discovery of these billing records
8 at the White House?

9 A No.

10 Q That's the Rose Law Firm billing records
11 discovered on January --

12 A I know what you are talking about.

13 Q I want to make sure it is clear on the
14 record, on January 4, 1996.

15 A The answer is still no.

16 Q You just mentioned that this plane was --
17 you have an understanding that this plane was flown
18 by Central Air Services. What is Central Air
19 Services?

20 A No, I don't have any understanding it was
21 flown by, it was flown to. Central Air Service is
22 what is called a FBO, a fixed base operator, located

1 in Little Rock, Arkansas.

2 Q So the plane was flown to this --

3 A From Flippin.

4 Q Was flown from Flippin to Little Rock?

5 A Right.

6 MR. COLE: That would be south.

7 BY MR. GIUFFRA:

8 Q Arkansas geography. And was it kept at
9 Little Rock airport?

10 A And sat there for some time.

11 Q And never flown?

12 A I don't think so.

13 Q And no funds were ever -- were funds paid?

14 A Yes, I think ultimately the plane was sold
15 to someone for \$25,000, but I don't recall who.

16 Q Do you know if it was sold to Mr. Ward?

17 A I believe it -- at one point was in title
18 to Mr. Ward. Now I don't know if he actually bought
19 it or what he was doing, but I believe he took title
20 to it.

21 Q Do you know Mr. Ward?

22 A No. Thank God.

1 MR. COLE: Mr. Blair, is the \$25,000 that
2 that plane was sold for the same \$25,000 you referred
3 to sometime ago in your testimony as having gone back
4 to Mr. McDougal?

5 THE WITNESS: No, that's another.

6 MR. COLE: It just happens to be the same
7 amount.

8 THE WITNESS: It just happens to be the
9 same amount.

10 MR. COLE: Thank you.

11 BY MR. GIUFFRA:

12 Q We have these notes, let me show them to
13 you, from Ms. Thomases, at the top bear Bates number
14 ST 36 and 37. It says, "ask Jim Blair to call Wade,
15 one, ask him about plane; two, current status of
16 properties."

17 A Okay.

18 Q "Three, want to do '91 return."

19 A Okay.

20 Q "Four, sale of Fayetteville." Do you know
21 what this refers to or -- strike that.

22 Do you recall when this conversation would

1 have occurred?

2 A Well, I'm sure it was in spring of '92, but
3 I don't recall when.

4 Now, there's a date down here at the very
5 bottom that says "2/27/92," but I don't know what
6 that means. And there is a date up here, "2/22/92,"
7 I don't know what that means, either.

8 Q Do you know what the reference is to, "want
9 to do '91 return"?

10 A I would guess -- why should I guess? No, I
11 don't know.

12 MR. GREEN: I don't know why you are
13 guessing, either.

14 BY MR. GIUFFRA:

15 Q Well, if you were -- what would be your
16 best estimate as to what that might relate to?

17 MR. GREEN: Best guess. It is still a
18 guess, a guess is a guess. I don't want to you
19 guess.

20 THE WITNESS: My lawyer doesn't want me to
21 guess.

22 BY MR. GIUFFRA:

1 Q Do you think this might relate to the '91
2 tax return of Whitewater Development Corporation?

3 A I don't think so.

4 Q What '91 tax return might it relate to, if
5 you know?

6 MR. GREEN: Don't guess. You either know
7 or you don't know.

8 THE WITNESS: I don't know.

9 BY MR. GIUFFRA:

10 Q When you say you "don't know," does that
11 mean you have absolutely no idea what it relates to?

12 A I have as good an idea as you do, of
13 course. I suspect it is the Clintons' '91 tax
14 returns. See, I give up easy and disobey my
15 lawyers.

16 Q What issue would there be in the Clintons'
17 '91 tax returns that would require you to call
18 Mr. Wade?

19 A I'm sure that I don't have the foggiest
20 notion.

21 Q Okay, the next entry -- strike that.

22 Why did you believe it had to do with the

1 '91 tax return?

2 A Well, because these are February dates and
3 normally people do their '91 tax returns in February
4 of -- March and April of 1992.

5 Q Do you know of any connection between the
6 Clintons' '91 tax returns and Chris Wade?

7 A I don't know of any. You asked me to guess
8 and I guessed. That's all I know.

9 Q Okay.

10 A And it is probably a bad guess.

11 Q The next reference, sale of Fayetteville;
12 what does that mean?

13 A I suspect that has to do with the sale of
14 the house on California Drive.

15 Q And whose house would be on California
16 Drive?

17 A Well, it was the Clintons' at one time. It
18 is where they lived after they were married.

19 Q And what connection would there be between
20 that house and Chris Wade?

21 A I don't think there would be any. I'm sure
22 there wouldn't be.

1 Q Later down there is a discussion on
2 2/27/92, has a reference to you and it says "Jim
3 Blair 2/27/92 whose responsibility was stamp tax," I
4 believe. Do you recall any discussion of a stamp tax
5 issue with Ms. Thomases?

6 A In Arkansas, there is a law, and it's been
7 changed three or four times, and it's been so long
8 since I've done any real estates law. I don't
9 remember now whether the buyer or the seller has to
10 pay it, but somebody has to put real estate stamp tax
11 on a deed transfer.

12 And I guess the question was -- in
13 reference to somebody who should do it.

14 Q Do you recall that issue coming up --

15 A No, I don't recall.

16 Q Have you ever participated in any
17 conversation in which the issue of payment of money
18 to Jim McDougal was discussed?

19 A In which the issue of payment of money to
20 Jim McDougal -- other than what I've already
21 testified to, no.

22 Q And that would be the issue of the handling

1 of the sale of the Clinton's interest in Whitewater?

2 A Right.

3 Q Do you have any knowledge of any efforts to
4 pay money to Mr. Heuer for his representation of
5 Mr. McDougal?

6 A No.

7 Q Did you have --

8 A Well, okay, let me rephrase that.

9 I know that Susan McDougal had a press
10 conference in Little Rock, Arkansas, and that she had
11 at her press conference, a woman named Claudia Riley,
12 and I know that Claudia Riley announced that she was
13 establishing the McDougal defense fund. Now, whether
14 that ever got a dime from anybody or not, I do not
15 know.

16 Q Do you know of any efforts, other than that
17 effort, to raise money to pay for any of the
18 McDougals' legal expenses?

19 A No.

20 Q Are you aware of any efforts to provide any
21 funds directly or indirectly to Mrs. McDougal?

22 A No.

1 Q Have you ever participated in any
2 conversations with Mr. Kendall and Mr. Heuer?

3 A I have participated in conversations with
4 Mr. Kendall and Mr. Heuer.

5 Q Do you remember any of those
6 conversations? Has the question of money being
7 provided either directly or indirectly to
8 Mr. McDougal ever been discussed?

9 A Other than the answers which I gave you in
10 my telephone deposition, no.

11 MR. GIUFFRA: Let's go off the record for a
12 second.

13 (Discussion off the record.)

14 MR. GIUFFRA: Let's go back on the record.

15 BY MR. GIUFFRA:

16 Q Now, I am looking at page 24 and 25 of your
17 telephone deposition.

18 And the question is "And you recall some
19 discussion between the two of you of the legal
20 defense fund for McDougal, I think that must be Heuer
21 and yourself?

22 "Answer: Not a serious discussion. It was

1 like, gee, would this be a possible thing to do."

2 Is that the testimony you are referring to?

3 A Yes.

4 Q Was Mr. Kendall on the telephone?

5 A I mean, I never participated in a three-way
6 conversation with him. That isn't the way you asked
7 the question.

8 Q First of all my question, did you ever
9 participate in a three-way conversation with
10 Mr. Heuer, yourself and Mr. Kendall?

11 A I don't think so.

12 Q Would this be in person or on the
13 telephone?

14 A I don't think so.

15 Q The only discussion you ever recall between
16 yourself and Heuer is this conversation you testified
17 at your deposition about the possibility of setting
18 up the legal defense fund?

19 A That's right.

20 (Recess.)

21 BY MR. GIUFFRA:

22 Q Let's focus on your conversations with

1 Mr. Heuer at the closing of the Whitewater sale in
2 December of 1993. Do you know how many conversations
3 you might have had with Mr. Heuer since that time?

4 A No.

5 Q Can you give us an estimate?

6 A No.

7 Q Did you have a number of conversations with
8 him?

9 A Yes.

10 Q Did anyone else participate in those
11 conversations besides yourself?

12 A No.

13 Q You don't recall a conversation between
14 yourself and Mr. Kendall and Mr. Heuer?

15 A I don't think so. I am not giving you a
16 hundred percent assurance it didn't happen, but I
17 sure don't recall.

18 Q Have you ever met with Mr. Heuer in person,
19 post the December of 1992 closing?

20 A Probably.

21 Q Do you have any recollection as to the
22 number of times you might have met with him in

1 person?

2 A No, I don't remember when he moved his
3 office to the TCBY Towers, but I have been in his
4 office since it was in the TCBY Towers.

5 Q Do you recall anything about any of the
6 communications you might have had with Mr. Heuer,
7 post the December 1992 closing of Whitewater?

8 A Mostly it is just passing back and forth
9 street gossip.

10 Q Mostly, but what else do you recall?

11 A I don't recall any -- well, again, we're
12 getting back into the telephone deposition. But,
13 yes, I referred him a couple of cases and, you know,
14 I've called him a time or two to check on how he was
15 doing on his calendar case, but I don't recall
16 anything important.

17 Q Well, do you recall any discussions with
18 Jim McDougal post December 1992, between yourself and
19 Mr. Heuer?

20 A I am sure and I don't remember the dates,
21 but every time that the McDougals made a television
22 appearance or there has been some big quote in the

1 papers about some nutty thing that he said today,
2 that I've called Heuer and said what the hell is
3 going on with McDougal.

4 Q Have you asked Mr. Heuer to take any action
5 with regard to Mr. McDougal after December of 1992?

6 A Not after December of 1992. In '92, yes, I
7 did, but not after that.

8 Q Has anyone at the White House ever asked
9 you to contact Mr. Heuer since January 20, 1993, with
10 regard to Mr. McDougal?

11 A I don't think so.

12 Q Has David Kendall ever asked to you contact
13 Mr. Heuer?

14 A I'm not going to answer those kinds of
15 questions.

16 Q Attorney-client privilege; right?

17 A It is unprofessional of me to disclose a
18 conversation with another lawyer on behalf of either
19 a client or a former client. And I am not going to
20 do it. My ethics professor in law school is still
21 alive and he would come get me.

22 MR. GREEN: So would your current lawyer.

1 BY MR. GIUFFRA:

2 Q Sir, if you -- have there been any
3 instances in which, after a communication with
4 Mr. Kendall, you asked Mr. Heuer to do anything?

5 MR. GREEN: That assumes he had
6 conversations with Mr. Kendall.

7 MR. COLE: I think he already testified he
8 hasn't asked Mr. Heuer to do anything since 1992.

9 MR. GIUFFRA: I just want to be sure it is
10 clear on the record.

11 BY MR. GIUFFRA:

12 Q Following any conversation with David
13 Kendall, have you ever asked Mr. Heuer to take any
14 action?

15 A I have never asked Mr. Heuer to take any
16 action since 1992, following conversation with
17 anybody.

18 Q Have you --

19 A Or not following conversation with
20 anybody.

21 Q Have you in any way acted as a liaison
22 between Mr. Kendall and Mr. Heuer?

1 MR. GREEN: Don't answer.

2 THE WITNESS: On advice of counsel.

3 BY MR. GIUFFRA:

4 Q Have you obtained any information from
5 Mr. Heuer since December 1992 having anything to do
6 with Jim McDougal, Whitewater or Madison Guaranty?

7 A It is possible.

8 Q Do you know what that information might be?

9 A Again, mostly street gossip.

10 Q But you are saying "mostly street gossip."

11 Anything other than street gossip?

12 A Well, the documents that I have turned over
13 to you, and I have turned over everything I've got,
14 some of those documents might have come from Heuer, I
15 just don't recall.

16 Q Since December 1992, have you provided any
17 advice to Heuer with regard to anything having to do
18 with McDougal, Madison, or Whitewater Development
19 Corporation?

20 A I don't think so. I did have a
21 conversation with him, in which I said I wished that
22 I was in a position to come down here and help you

1 try this case, because it would be fun, and I think
2 we could win it, but obviously I can't. So, I didn't
3 give him any advice and I didn't go help him.

4 Q Do you know Jennifer Horan?

5 A Yes.

6 Q Who is Jennifer Horan?

7 A She is the former wife of Matt Horan. She
8 is a lawyer, she practiced in Fayetteville, Arkansas
9 a for a period of time. She is now the public
10 defender for the federal courts for the Western
11 District of Arkansas. Or it may be the Eastern, I
12 don't know.

13 Q Do you know whether she represents Susan
14 McDougal?

15 A My understanding is that she does represent
16 Susan McDougal.

17 Q Have you ever had any conversations with
18 Ms. Horan having anything to do with Whitewater,
19 Madison, or Susan or Jim McDougal?

20 A Independent Counsel Starr subpoenaed me to
21 testify at a preliminary hearing on the
22 McDougal/Tucker pending trial, and kept me for a day

1 and a half in a witness room and did not actually
2 call me as a witness. But I was there under
3 subpoena.

4 At some point, and I believe it is when I
5 was released from my subpoena, I went down and toured
6 Jennifer's offices. And there were a number of
7 people down there, there may have been little quips
8 about the hearing and what Independent Counsel Starr
9 was doing, but it was all generalities, and I don't
10 think it is anything you are reaching for.

11 Q You've testified, what you've discussed
12 with Mr. Heuer is street gossip?

13 A Yes.

14 Q What would be the street gossip you have
15 discussed with Mr. Heuer?

16 A Oh, was Gerth back in town, was Independent
17 Counsel Starr really preventing prosecutor Mark
18 Stodala from filing charges against David Hale for
19 stealing the burial insurance money, was Newsweek
20 magazine, was Isikoff re-erecting Whitewater.

21 MR. GREEN: Is this really interesting,
22 this street gossip?

1 MR. GIUFFRA: What Mr. Blair thinks is
2 street gossip might be of some interest to me.

3 MR. GREEN: If you have something in mind,
4 why don't you direct his attention to it and let's
5 get on with it.

6 BY MR. GIUFFRA:

7 Q Do you know who Bobby McDaniel is?

8 A I know who he is.

9 Q Have you spoken to Bobby McDaniel about
10 anything having to do with Whitewater, Madison --

11 A I believe I have never spoken to Bobby
12 McDaniel, anyway.

13 Q You know Governor Jim Guy Tucker, right?

14 A I do.

15 Q Have you spoken to governor Jim Guy Tucker
16 about anything having to do with Whitewater or
17 Madison or the McDougals?

18 A Or his indictment?

19 Q Or his indictment.

20 A Okay, yes.

21 Q Big broad question?

22 A Yes.

1 Q I will give you the date, since let's say
2 February 1, 1992.

3 A Yes.

4 Q When have you spoken to Jim Guy Tucker?

5 A Every time I have seen him and that's been
6 maybe a half a dozen times.

7 Q And these have all been post his
8 indictment?

9 A Yes.

10 Q No conversations during the 1992 campaign
11 with Mr. Tucker?

12 A No. I had a conversation in the '92
13 campaign with Mr. Tucker.

14 Q What was the conversation you had with Mr.
15 Tucker during the 1992 campaign?

16 A I called him to ask him about why McDougal
17 was so -- I think I used the word "pissed off" at
18 him.

19 Q And what was your understanding as -- how
20 did you come to learn that Mr. McDougal was pissed
21 off at Jim Guy Tucker?

22 A Well, for one thing it is in the Sheffield

1 Nelson tape which I had a transcript of. And for
2 another thing, I think Heuer told me that the reason
3 McDougal had gone to see Sheffield was not to try to
4 do the Clintons in, but to try to do Tucker in.

5 Q Do you recall anything more about that
6 conversation with Mr. Tucker?

7 A Yes.

8 Q Okay, go ahead, what else do you recall
9 about it?

10 A Well, Tucker said that when McDougal had
11 his nervous breakdown or whatever it was, and when he
12 went off and disappeared in California and was
13 allegedly psychiatrically hospitalized or whatever,
14 that there were things that were delinquent
15 obligations, which he wound up paying off. And I
16 think he took title to some property or something,
17 and I think he believed he had an agreement and an
18 understanding with McDougal about that.

19 But McDougal had got in his head that
20 Tucker had made off with his property and Tucker said
21 he hadn't made off with any property, that if
22 McDougal would give him back the money that he had

1 paid out, he would be glad to give McDougal whatever
 2 interest that was. But it was basically that
 3 Tucker's position was McDougal was very confused and
 4 misunderstood or chose to misunderstand, and that he
 5 did not owe McDougal anything.

6 Q Can you recall anything more about the
 7 conversation?

8 A No.

9 Q Now the conversations in 1993, 1994, 1995
 10 related to the indictment of Tucker?

11 A Yes.

12 Q No conversations about -- strike that.

13 What were the nature of those
 14 conversations, expressing your concern?

15 A Those were conversations where I would go
 16 up and say how are you doing, Governor, hang in
 17 there, I hope you beat this. And -- or I know you
 18 are going to beat this.

19 Q Nothing more?

20 A Morale boosting.

21 Q Do you know Bill Haley?

22 A I think I know who he is, but I don't

1 believe I know him at all.

2 Q Have you had any conversations with Webster
 3 Hubbell since February 1, 1992, about
 4 Whitewater/Madison, the McDougals?

5 A I don't think so.

6 Q Have you had any conversations with -- do
 7 you know L.D. Brown?

8 A I know who he is.

9 Q Who is L.D. Brown?

10 A He is a rogue cop.

11 Q He was a former Arkansas state trooper?

12 A Maybe. He is a former rogue cop, then.

13 Q Have you had any conversations with
 14 Mr. L.D. Brown since February 1, 1992?

15 A No.

16 Q Have you had any conversations with David
 17 Hale since February 1, 1992?

18 A No.

19 THE WITNESS: You are not going to ask me
 20 who he is?

21 BY MR. GIUFFRA:

22 Q Since the -- you've testified as to one

1 conversation going to see Chris Wade during the 1992
2 campaign. Have you had any other conversation with
3 Mr. Wade relating to Whitewater/Madison, the
4 McDougals?

5 A No.

6 Q Just the one time when you went out to --
7 to Flippin?

8 A That's right. I mean -- that's the one
9 face-to-face conversation, then I had a half a dozen
10 telephone conversations.

11 Q All relating to the --

12 A Which we've already discussed.

13 Q The \$13,000 owing on the note?

14 A Yes.

15 Q Do you know Jack Lasater?

16 A I think I know who he is.

17 Q Who do you think he is?

18 A I think he is a lawyer that does some
19 criminal work in Little Rock.

20 Q Did you have any communications with
21 Mr. Lasater about anything having to do with Madison,
22 Whitewater, David Hale --

1 A No.

2 Q Do you know Dan Lasater?

3 A No, I know who he is, but I have never met
4 him to my knowledge.

5 Q Did you ever attempt to contact -- after
6 January 20, 1993, did you ever attempt to contact
7 Mr. Hubbell?

8 A After January of 1993?

9 Q Yes.

10 A Not in regard to anything that's within
11 Senate Resolution 120.

12 Q Do you recall specifically what you might
13 have been attempting to contact Mr. Hubbell about?

14 MR. COLE: Did you say when?

15 MR. GIUFFRA: No, what.

16 THE WITNESS: Yes, I do.

17 BY MR. GIUFFRA:

18 Q What did it relate to?

19 A I am not going to deal with it because it
20 is not within the scope of your investigation.

21 Q I am not asking for the specifics. I just
22 want a general subject matter heading for what you

1 were contacting Mr. Hubbell about.

2 THE WITNESS: I will be guided by my
3 lawyers. Do I have to give him any more than that?

4 MR. TAYLOR: No.

5 THE WITNESS: They say no.

6 (Discussion off the record.)

7 BY MR. GIUFFRA:

8 Q In any of the conversations you had with
9 Jim Guy Tucker after February 1, 1992, did David Hale
10 come up?

11 A No.

12 Q I will show you a letter. Before I do
13 that, did you indicate in any way to Mr. Heuer that
14 the Clintons might bring a legal action against
15 Mr. McDougal?

16 A I wrote Heuer a letter which I intended for
17 him to show to his client, which was trying to
18 suggest that it was not in his client's interest to
19 keep talking to the press, or to keep giving records
20 to the press that we didn't have a copy of.

21 Q But did you ever indicate to him that the
22 Clintons might bring a lawsuit against Mr. McDougal?

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1 A No. The only communication is the letter
2 you have in front of you.

3 Q So other than this letter --

4 A In fact, to the contrary, the letter
5 indicates they would not, au contraire.

6 Q The letter bears Bates number 321, to
7 Mr. Heuer, from Mr. Blair and you never signed this
8 letter?

9 A Yes. But I wouldn't very well have the
10 signed copy in my possession, would I?

11 Q Some people keep their files differently
12 than others. Normally is your office procedure you
13 wouldn't keep a signed copy in your files?

14 A No, I would not. I would keep the copy and
15 sign the original and send it.

16 Q Was there an earlier version of this
17 letter?

18 A I don't know what that corrected version
19 means. I honestly don't. There is a version without
20 those words on there. I can't tell any difference
21 between them. I have looked at them. I don't know
22 what that means.

1 Q What was the purpose behind sending this
2 letter?

3 A Oh, I guess to call to Sam's attention and
4 hope he would call to McDougal's attention that
5 McDougal wasn't acting in his own best self-interest,
6 that the Clintons did have certain rights; they
7 weren't going to insist on them. But as I concluded,
8 I would hope that McDougal would seek Heuer's counsel
9 in the future before doing or saying anything more
10 about this.

11 Q The last line --

12 A Which was good advice because McDougal
13 wouldn't be indicted today if he had followed that.

14 Q The last line of the letter says "I hope
15 this clarifies the Clintons' position." Why did you
16 include that sentence in your letter?

17 A Because I felt like it.

18 Q Was there some uncertainty as to what the
19 Clintons' position was with regard to these matters,
20 as far as McDougal was concerned, as of the time you
21 sent the letter?

22 A Unlike Sullivan & Cromwell, I don't take

1 hours to write a letter. I quickly dictate it or
2 scrawl it out on yellow pad and it goes. And this
3 was a five-minute letter and I don't know now why I
4 chose the phrases I chose, but I did not agonize over
5 them; I did not rework the letter.

6 Q Did you have any discussions with Mr. Heuer
7 prior to sending this letter, about the possibility
8 that the Clintons might bring a legal action against
9 Mr. McDougal?

10 A I don't think so.

11 Q Do you know whether anyone who was a member
12 of the Clinton campaign might have had such a
13 conversation with Mr. Heuer?

14 A I don't -- not that I know of.

15 Q And have you ever discussed with
16 Mrs. Clinton the possibility of bringing a legal
17 action against Mr. McDougal?

18 A No.

19 Q Now, the first sentence of the letter says
20 "sorry I missed your phone call on Sunday, but I
21 believe I received the correct message."

22 What was the message that Mr. Heuer was

1 sending to you?

2 A I have no idea. Maybe it relates to the
3 next sentence and I would presume it does, but I
4 don't know.

5 Q In what way would the message relate to the
6 next sentence?

7 A He was probably inquiring about the
8 so-called Jim Lyons report, as it's become famously
9 known as, which was that there were forensic
10 accountants trying to reconstruct the Whitewater
11 stuff.

12 Q Prior to the sending of this letter on
13 March 16, 1992, had you had any communications with
14 Mr. Heuer about possible civil or criminal liability
15 on the part of Mr. McDougal?

16 A Well, I think at the meeting, which my memo
17 memorializes, I think it was discussed that if Gerth
18 was right, McDougal had committed a crime; if Gerth
19 was wrong, McDougal had a libel action against him,
20 because he had been accused of a crime. So in that
21 sense, I guess the answer is yes.

22 Q So had you ever discussed with Mr. Heuer

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1 the possibility that the Clintons might have some --
2 strike that.

3 Civil or criminal liability relating to
4 Whitewater Development Corporation?

5 A I have not, and I don't think they do.

6 Q Okay. And your testimony is you don't know
7 why you added the "I hope this clarifies the
8 Clintons' position" at the bottom of the letter?

9 A Well, I was gratuitously appointing myself
10 to communicate the Clinton position, which I did not
11 discuss with them. And maybe I put that in to
12 appropriate a little more authority; I don't know.

13 Q But you didn't know why you used the word
14 "clarifies"? Some uncertainty as to what the
15 Clinton position was?

16 A No, I just like the word.

17 Q During the 1992 Presidential campaign, did
18 you have any conversations with Governor Clinton
19 about Whitewater, Madison and the McDougal's?

20 A Been asked and answered.

21 Q No conversation with Mrs. Clinton?

22 A Been asked and answered.

1 Q Okay. Have you ever had a conversation
2 with Bill Clinton about Whitewater, Madison or the
3 McDougals?

4 A No.

5 Q Have you ever had a conversation with
6 Mrs. Clinton about Whitewater, Madison or the
7 McDougals?

8 A No.

9 Let me rephrase that. That's not entirely
10 accurate.

11 I did ask the Clintons, and I don't
12 remember which one, to call David Kendall and ask him
13 if he could go through the documents that he had
14 accumulated on Whitewater.

15 Q Do you recall when you might have made that
16 request?

17 A '93 or '94.

18 Q Do you recall why you made that request?

19 A I made it because I still thought at that
20 point I might be able to participate in their
21 defense, and I wanted to see if Kendall had anything
22 I didn't know about.

1 Q Did the Clintons ask you to participate in
2 their defense?

3 A They called Kendall and told -- apparently
4 they called Kendall to let me go through their files.

5 Q Have the Clintons -- strike that.

6 Since January 20, 1993, have the Clintons
7 asked you to participate in their defense with regard
8 to -- let's rephrase it again.

9 Have the Clintons ever asked you to
10 participate in their defense with regard to
11 Whitewater/Madison matters?

12 A I am not going to answer that.

13 Q Why are you not going to answer the
14 question? There is no objection.

15 A They have been my clients and I am not
16 going to discuss legal discussions. I'll discuss
17 other things.

18 Q I am trying to discover whether there is a
19 privilege that might exist between communications
20 with Mr. Kendall. If you had never been retained as
21 an attorney by the Clintons with Whitewater/Madison
22 matters, you don't have an attorney-client privilege

1 with regard to such matters.

2 A Where did you go to law school?

3 Q The question is pending.

4 A That's not a question and you know it is
5 not a question.

6 MR. GREEN: Next question.

7 MR. GIUFFRA: Let's read the question
8 back -- don't read it back.

9 MR. GREEN: You made a speech. Let's go to
0 a question.

1 BY MR. GIUFFRA:

2 Q Have you ever been retained by the Clintons
3 to represent them with regards to Whitewater or
4 Madison-related matters?

5 MR. GREEN: I think he answered that one.
6 Did you answer that by saying you weren't going to
7 answer that?

8 THE WITNESS: Yes.

9 MR. GIUFFRA: What's the basis for not
0 answering the question?

1 MR. GREEN: He has a privilege with the
2 Clintons.

1 MR. GIUFFRA: Let's go off the record for a
2 second.

3 (Discussion off the record.)

4 MR. GIUFFRA: Read the last question back
5 and the answer to the extent there is one.

6 (The reporter read the record as requested.)

7 MR. GIUFFRA: Just so the record is clear,
8 the Majority's position, one, that whether Mr. Blair
9 has been retained by the Clintons is relevant to the
0 termination of privilege. Two, his testimony is, as
1 I recollect, that he has had one conversation with
2 the Clintons about Whitewater or Madison, and that is
3 a conversation in which Mr. Blair asked if he could
4 look at some documents that Mr. Kendall had in his
5 possession with regard to Whitewater/Madison matters.

6 THE WITNESS: Now, having heard that does
7 make me wonder if maybe I didn't call Kendall and ask
8 Kendall to ask them that, so I'm not positive that I
9 asked them that.

20 BY MR. GIUFFRA:

21 Q But just so your testimony is clear, no
22 conversation -- have you ever had a conversation at

1 any time with Bill Clinton about Whitewater or
2 Madison?

3 A Not really.

4 Q What does "not really" mean?

5 A Not in terms of any details or substance or
6 anything like that.

7 Q Bill Clinton has never asked to you take
8 any action whatsoever with regard to
9 Whitewater/Madison related matters?

10 A That's a hard question to answer, and I
11 don't know how I can answer that.

12 MR. GREEN: I wouldn't answer it.

13 THE WITNESS: So I guess I won't answer it.

14 BY MR. GIUFFRA:

15 Q You are not going to answer the question on
16 what grounds?

17 A Advice of counsel.

18 MR. GIUFFRA: Is your counsel advising you
19 on the grounds of attorney-client privilege?

20 MR. GREEN: Among others.

21 BY MR. GIUFFRA:

22 Q Have you had any conversations with

1 Mrs. Clinton at any time about anything having to do
2 with Whitewater, Madison, Jim McDougal or anything
3 else in the Senate Resolution 120?

4 A No.

5 Q And I would include within that Rose Law
6 Firm representation of Madison.

7 A Right.

8 Q No conversation?

9 A No conversation.

10 Q You know Archie Schaffer; correct?

11 A Yes.

12 Q Who works at your company. Didn't he work
13 at Tyson?

14 A I wish it were my company. It is not my
15 company. He works at a company --

16 Q He works at Tyson Company; correct?

17 A Yes.

18 Q And he is married to Beverly Bassett
19 Schaffer; correct?

20 A He claims to be.

21 Q Since February 1, 1993, have you had any
22 conversation with Archie Schaffer about Beverly

1 Bassett and her regulation of the Madison Guaranty
2 S&L?

3 A Yes.

4 Q What conversation have you had with
5 Mr. Schaffer?

6 A I've encouraged him to have her sue
7 somebody in the media. I've encouraged him to make a
8 massive press conference. I have encouraged him to
9 come out -- force her to come out of her shell and go
0 on the attack. And he just says she won't do it.

1 Q Do you recall -- has anyone at the White
2 House ever asked you to serve as a liaison between
3 the White House and Ms. Bassett Schaffer?

4 A No.

5 Q Or Mr. Schaffer?

6 A No.

7 Q Have you ever discussed with Mr. Schaffer,
8 Ms. Bassett Schaffer's regulation of Madison?

9 A Yes.

0 Q And what has Mr. Schaffer said to you about
1 what Mrs. Schaffer said about -- Mrs. Schaffer's
2 regulation of Madison?

1 A Well, I don't know whether I said it to him
2 or he said it to me, but it is like talking about a
3 football game; I mean, everybody chimes into the
4 conversation.

5 The fact that Jeff Gerth in his article
6 would say she doesn't have any recollection of this,
7 when she had written him two 18-page, detailed memos,
8 was so outrageous and so perverted that we have, on a
9 number of occasions, mutually exchanged our being
0 appalled at that. That a reporter, even though he
1 was sent by Howell Raines to do that, would be doing
2 that kind of thing.

3 We have also discussed the fact that when
4 she challenged Gerth, Gerth claimed that part of his
5 article was edited out. It wasn't his fault that she
6 was so improperly represented. And probably other
7 things of that nature.

8 Q In order to speed this up, we will include
9 Ms. Bassett Schaffer and Mr. Bassett Schaffer, and if
0 you need to distinguish, let me know. Have you had
1 any discussions with either one of the Schaffers
2 about whether Mrs. Clinton had any communications

1 with Ms. Schaffer in 1985 with regard to the issuance
2 of preferred stock by Madison?

3 A At some point, I obtained Beverly Bassett's
4 memorandums which she sent to Gerth. And they have
5 been furnished to you, as a part of my document
6 production. Beyond that, I don't think so.

7 Q Have you had any discussions with
8 Ms. Bassett Schaffer about her regulation of Madison
9 in the period '85, '86, '87?

10 A No, other than I probably told her that I
11 thought she did a good job on her testimony before
12 the committee, and that the committee should be
13 embarrassed by the way they treated her.

14 Q Have you ever discussed Jim McDougal with
15 Bill Clinton?

16 MR. GREEN: That's been asked.

17 THE WITNESS: I really don't think I have,
18 because I think by the time it would have been a
19 normal thing to do, I recognized it was something I
20 shouldn't do.

21 BY MR. GIUFFRA:

22 Q Do you have any knowledge with regard to

1 the appointment of a man named John Latham to the
2 Arkansas state S&L board?

3 A A little.

4 Q What do you know about that?

5 A That almost all the state savings and loans
6 became federal charters, there were only a handful of
7 state savings and loans left. There was really a
8 board that had virtually no function, and no one was
9 interested in being a member. And that McDougal
10 wrote Clinton a letter in which he recommended a
11 couple of people and he said that he was the only
12 savings and loan that really anybody had any interest
13 about who was on the state board.

14 Q Do you know anything other than having seen
15 that letter --

16 A No.

17 Q -- about the appointment of Mr. Latham to
18 the state board.

19 A No.

20 Q Did you attend a University of Arkansas
21 basketball game at Fayetteville on December 28, 1993?

22 A If they were playing, I was there.

1 Q And do you recall the President being at
2 that game?

3 A I recall the President being at a couple of
4 Razorback games at Fayetteville. I couldn't give you
5 the dates.

6 Q Do you recall him attending a game on
7 December of 1993?

8 A If you tell me that's when it was, I accept
9 your representation.

10 Q Do you recall whether the President would
11 have watched these games from the stands or from the
12 Tyson's food box?

13 A He did a little of both. He sat down
14 behind the home team bench, four or five rows up.
15 And some of us made a point of engineering a cycle of
16 people going down and sitting with him or behind him,
17 for a few minutes at a time, and we kept cycling
18 friends down there to him.

19 At some point, he did come up and walk
20 through the Tyson box.

21 Q Do you recall whether Beverly Bassett
22 Schaffer or Archie Schaffer would have been cycled by

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1 the President while he was sitting in the stands?

2 A I don't know. There's television film of
3 it and you can look at it and see who was there, but
4 I don't recall whether they were or not.

5 Q Do you recall whether Beverly Bassett or
6 Archie Schaffer were at this game in December of
7 1993?

8 A I'm reasonably sure that Archie was. I
9 guess they both were. I'm not positive.

10 Q Do you recall whether they would have been
11 present in the Tyson box?

12 A If they were there, they would probably at
13 some point have been in the Tyson box. People that
14 have their own seats, and my recollection is they
15 have their own seats, do come down, go through, get a
16 cup of coffee, grab a cookie, visit.

17 Q Do you recall whether you ever saw the
18 President and Ms. Bassett Schaffer or Mr. Schaffer
19 talking during this basketball game?

20 A No.

21 Q Do you know whether Bruce Lindsey attended
22 this basketball game?

- 1 A Yes.
- 2 Q How do you know Mr. Lindsey was present
3 also?
- 4 A Well, because after the game they all came
5 over to my house.
- 6 Q And that would include the President, as
7 well?
- 8 A Yes.
- 9 Q The President spent the night at your
10 house?
- 11 A Yes.
- 12 Q You don't recall whether Ms. Bassett
13 Schaffer and Mr. Schaffer were present at your house?
- 14 A I don't think so. But I'm not a hundred
15 percent positive.
- 16 Q Is there a list anywhere of who was present
17 at your house?
- 18 A Bruce Lindsey, I think maybe Beverly
19 Lindsey, Mack McLarty, I think Donna Kay, Web
20 Hubbell, Susie Hubbell, Vince Foster.
- 21 Q This would have been December of 1993?
- 22 A Yes. He already killed himself in

- 1 December? Oh, then Vince wasn't there. It was
2 basically the Arkansas people that were traveling
3 with the President. I don't think local people in
4 Fayetteville were there.
- 5 Q Was Mrs. Clinton present?
- 6 A Yes.
- 7 Q During the basketball game, did you have
8 any discussions with Mr. Lindsey about anything
9 having to do with Whitewater/Madison?
- 10 A No.
- 11 Q Do you know whether Mr. Lindsey spoke with
12 Ms. Schaffer at the basketball game about anything
13 having to do with Whitewater/Madison?
- 14 A I don't know.
- 15 Q Do you recall any discussion by anyone at
16 this basketball game having anything to do with
17 Whitewater, Madison, Jim McDougal, the Rose Law Firm?
- 18 A I don't think Whitewater was a hot issue in
19 December of 1993 yet, but I don't recall.
- 20 Q Just one quick question with regard to the
21 closing of the Whitewater sale in December of 1992,
22 do you know who paid Mr. Heuer's legal bills?

1 A Well, either McDougal paid him or he didn't
2 get paid, because I didn't pay him and I am sure,
3 knowing Vince, he didn't pay him.

4 Q Do you know whether anyone -- strike that.
5 Do you know whether the White House has
6 asked anyone to contact Beverly Bassett Schaffer or
7 Archie Schaffer, with regard to Madison Guaranty?

8 A All I know is what I read in the paper and
9 saw on television about Mark Gearan and his notes.

10 Q Do you know whether Skip Rutherford ever
11 spoke to Mrs. Schaffer?

12 A No.

13 Q Tisdale?

14 A Yes.

15 Q Paul Barry?

16 A No.

17 Q Do you know Paul Barry?

18 A Yes.

19 Q Who is he?

20 A Spook.

21 Q Pardon me?

22 A Spook. That's his nickname, Spook.

1 Q What does he do?

2 A Well, I believe he is a lobbyist now
3 affiliated with some Washington firm. He was a
4 lobbyist for the Union Bank in Arkansas for a number
5 of years. He was a surprise President of the Union
6 Bank.

7 Q During the 1992 Presidential transition,
8 that would be November through January of 1992-1993,
9 did you have any meetings with Vince Foster at the
10 Little Rock airport?

11 A I have seen a very famous picture in
12 Newsweek which shows me standing on the tarmac, I
13 believe, at the Little Rock airport with the Clintons
14 and Vince. I think what that was is my wife came to
15 Little Rock on Air Force One, and my purpose in being
16 there was to greet my wife, and not to visit with
17 Vince Foster.

18 Q Did you attend any meetings during the
19 transition period of which Mr. Foster would have been
20 present or anyone else at which the Clintons'
21 finances were discussed?

22 A No.

1 Q Did you attend any meetings --

2 A With the caveat that my previous answers
3 about I may have discussed with Susan, with Jim
4 Lyons, with Vince, the need to get the Clintons out
5 of Whitewater.

6 Q You are from Fayetteville, not Little Rock.
7 Do you have any knowledge of a real estate
8 project called Castle Grande IDC?

9 A Other than what I've read in the papers and
10 heard in all this stuff, no.

11 Q You never discussed Castle Grande IDC with
12 anyone other than what you have seen in the papers?

13 A No. Let me put a caveat there. McDougal
14 at some point late in the day, put a big piece of
15 acreage that he bought from International Paper into
16 Whitewater Development Corporation, and then
17 transferred it back out. And at some point there was
18 a foreclosure received by International Paper which
19 named Whitewater Development Corporation, I believe,
20 and named the McDougals as defendants. It did not
21 name the Clintons.

22 But I did review that litigation, and I did

1 some investigation into that.

2 Q Did you do that investigation at anyone's
3 request?

4 A Well, I did it for the campaign. That was
5 still during the campaign.

6 Q What was the result of your investigation?

7 A I determined that McDougal, when he bought
8 that land, had forgotten that the Clintons were still
9 involved in Whitewater; he thought he owned all of
10 Whitewater, and he put the land in there, and then
11 found, to his horror, that they were still in
12 Whitewater, so he had to get it out. So again,
13 without telling anybody that he had put it in, he
14 took it back out and transferred it to another
15 corporation. I don't remember the name of the other
16 corporation.

17 But I believe that's the property on which
18 Castle Grande was ultimately established. But I am
19 not sure. Maybe not.

20 Q Did you ever discuss Southern Development
21 Corporation with Mrs. Clinton?

22 A No, but now I believe maybe that's the

1 company that the land was transferred to.

2 Q Have you ever discussed a bank called First
3 South with Mrs. Clinton?

4 A No.

5 Q Have you ever heard of something called
6 Great Southern Land Company?

7 A Maybe that was the name of it. I don't
8 know. I don't know.

9 MR. COLE: Apparently you know more than
0 the witness about this particular topic, Bob.

1 THE WITNESS: But I believe there were some
2 pleadings I had in my files which I believe I
3 furnished you in my production.

4 MR. GREEN: Let me ask you this. He's got
5 an 8:00 plane. I know we are far from 8:00. He has
6 an 8:00 plane. He has to go back to the hotel and
7 check out. What time do you contemplate ending?

8 MR. GIUFFRA: I am going to go as fast as I
9 can. I'm always leery about giving people specific
0 times, but you never know what the witness will say
1 about a subject.

2 MR. GREEN: You have to leave here by 6:30.

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1 THE WITNESS: I believe 6:00.

2 MR. GREEN: 6:30 at the latest.

3 MR. GIUFFRA: Let's keep going. I think we
4 are -- we are moving along.

5 MR. GREEN: I need to talk to him in a few
6 minutes because I may be moving along.

7 THE WITNESS: I am obviously not doing a
8 good job listening to you.

9 BY MR. GIUFFRA:

0 Q Now, you discussed the fact that during the
1 campaign, you had reviewed certain Whitewater
2 records; correct?

3 A Right.

4 Q Do you know where those records came from?

5 A A bunch of them came from Ozark Realty
6 Company.

7 Q Those were the records you obtained from
8 Mr. Wade?

9 A Right. Some of them came from the deed
0 registry of Yellow County or whatever county Flippin
1 is in.

2 Some of them, I don't know where they came

1 from.

2 Q Do you know whether any records came from
3 the Rose Law Firm?

4 A I don't know. They might have. I think
5 some of them were obtained by their law clerks from
6 the courthouse.

7 Q Do you know whether anyone at the campaign
8 destroyed any records relating to Whitewater or
9 Madison?

10 A Not to my knowledge.

11 Q Did you have any discussions during the
12 1992 campaign about the awarding of a bond
13 underwriting contract involving the Arkansas State
14 Police to Dan Lasater?

15 A A little.

16 Q What do you recall about that subject?

17 A That it was one of the damage control
18 issues that it -- some reporter or somebody, by this
19 time every national media had their flack and their
20 scorp in Little Rock, and this was one of the
21 impending efforts to create a scandal.

22 Q You don't recall any other conversations

1 other than it was a damage control issue?

2 A Yes.

3 Q You never did any work?

4 A I never did any work.

5 Q Did you or anyone at your direction,
6 attempt to talk to any of the bankers where the
7 Clintons had loans, outstanding relating to
8 Whitewater?

9 A I may have called and asked for some
10 balances. I'm not positive one way or the other.

11 Q Do you recall attempting to collect any
12 documents from any of these banks; loan files, loan
13 agreements?

14 A I might have even done that. I might have
15 asked them what would they send me; what they would
16 send me, I may have asked.

17 Q Did you recall which banks?

18 A I believe it largely would have been the
19 one at Flippin that changed its name and I don't
20 remember what its name -- it was the Bank of Flippin
21 and then it became something else.

22 Q Do you know a man named Marlon Jackson?

1 A Yes.

2 Q Who is Marlon Jackson?

3 A Marlon Jackson is a guy from Pocahontas or
4 Paragould --

5 MR. GREEN: Can we take two seconds.

6 MR. COLE: Off the record.

7 (Discussion off the record.)

8 MR. GIUFFRA: Back on the record.

9 BY MR. GIUFFRA:

10 Q Have you ever discussed with Mr. Jackson a
11 loan that Bill Clinton had with the Security Bank of
12 Paragould relating to Whitewater Development
13 Corporation?

14 A Probably.

15 Q What do you recall discussing with
16 Mr. Jackson about that loan?

17 A Well, let me just lay it all out so we
18 don't have to have a bunch of questions, okay.

19 After Gerth's initial article, I don't
20 recall, I think he may have run something on Marlon
21 Jackson. But he contacted Marlon, and Marlon and I
22 had served on the state board of higher education

1 together for 10 years; I have known Marlon a long
2 time. Marlon is up in years. Like me, he talks too
3 much, he is worse than I am.

4 And he had gotten into conversations with
5 Gerth, and then Gerth had sent him a letter which had
6 alarmed him because he believed that the innocuous
7 statements -- he believed these statements had been
8 innocuous, were turned sinister by a slight changing
9 of words.

10 And he had contacted the campaign, and the
11 campaign asked me to handle Marlon. And I told him
12 to have the Gerth fax him the questions that he
13 wanted answered, and that I would help him answer
14 them. And that was done. And probably part of that
15 involved moving a loan from the Bank of Kingston to
16 Security State Bank of Paragould.

17 Q Did Mr. Jackson ever indicate to you he had
18 any role in the transferring of that loan from --

19 A I think he may have owned the Bank of
20 Paragould, but I think his assets were in a blind
21 trust at the time.

22 Q But did he ever indicate to you that he had

1 any discussions about the shifting of the loan from
2 owe from Mr. McDougal's bank, which I believe was the
3 Madison --

4 MR. COLE: Madison Bank & Trust, formerly
5 bank of Kingston.

6 BY MR. GIUFFRA:

7 Q Bank of Kingston --

8 A The argument with Gerth was that he had
9 used as proof of his -- he, Marlon had used as proof
10 of his probe at this, the fact that he had jumped on
11 the Bank of Kingston and had chastised them for
12 loaning too much money outside their loan area and
13 various other things. And I don't remember whether
14 it was this bank or some other bank, but at some
15 point he related a conversation to Gerth that he had
16 had with Clinton, when he told Clinton about
17 something he was going to do about some bank that
18 involved some friends of Clinton, and that Clinton
19 had said, Marlon, do what a bank commissioner is
20 supposed to do.

21 Gerth had somehow turned this around into
22 the idea that these were shoddy banking practices,

1 and he used the word "shoddy" in his letter to
2 Marlon.

3 And then, it became an issue between he and
4 Marlon as to whether Marlon had caused the loan to be
5 transferred from Bank of Kingston to security bank.

6 My recollection is, as best I recall,
7 Marlon said he had not.

8 Q Did you have any discussions with
9 Mr. Jackson about certain letters that he had written
10 to Security Bank of Paragould on the stationery of
11 the Arkansas banking department?

12 A Yes.

13 He had written some letters in regard to
14 extensions, maybe to the Clintons saying, you know,
15 your notes do, or maybe to the bank saying, you know,
16 the Clintons want to renew their note or something.
17 I have seen the letters.

18 Q Did he say anything to you about why he
19 prepared those letters?

20 A No.

21 Q Did he say to you whether it was proper for
22 him to prepare those letters?

1 A He indicated to me that he was just trying
2 to be helpful to everybody concerned, both the bank
3 and the Clintons.

4 Q I show you a document that bears Bates
5 number 279 to 281. Have you ever seen that? It is a
6 letter from Loretta Lynch to HRC common defense team
7 re Marlon Jackson. Have you seen this memo?

8 A Yes.

9 Q Was Mrs. Clinton part of the defense team
10 on Whitewater matters?

11 A Was what?

12 Q Was there a defense team on Whitewater
13 matters?

14 A Not Whitewater matters. There was what
15 became known as the defense team, but it was much
16 broader activity than that. It dealt with all kinds
17 of things.

18 Q Did Mrs. Clinton ever -- what other matters
19 did it deal with?

20 MR. COLE: Many of which are beyond the
21 scope of the resolution, but that's fine.

22 MR. GIUFFRA: He can tick off what they

1 were.

2 THE WITNESS: Yes, some of it was the bimbo
3 stuff, some of it was the police radio bond issue
4 deal, some of it was the ethics bill, some of it was,
5 you know, positions that Clinton might or -- might or
6 might not have taken on various state issues. It was
7 just whatever -- it was whatever the gotcha
8 journalism was playing gotcha with at the moment.

9 BY MR. GIUFFRA:

10 Q You don't know whether Mrs. Clinton
11 regularly received memos prepared by Ms. Lynch or
12 other members of the defense team?

13 A I would believe she would not. I would
14 believe that most of the time she was on the road.

15 Q And your testimony, again, is you never
16 spoke to Mrs. Clinton about anything having to do
17 with Whitewater/Madison, et cetera, during the
18 campaign?

19 A I did not, to the best of my recollection.
20 I'm sure I didn't.

21 Q Now you ultimately prepared a response for
22 Mr. Jackson?

1 A I did.

2 Q Did you review it with Mr. Jackson?

3 A I did.

4 Q Did Mr. Jackson say anything to you about
5 any conversations he had had with Governor Clinton
6 with regard to Mrs. Clinton's loan at Security Bank?

7 A Not that I recall.

8 Q How about at Bank of Kingston?

9 A Not that I recall.

10 Q Did you discuss anything else with
11 Mr. Jackson about McDougal or McDougal's banks, real
12 estate projects?

13 A Oh, Marlon talks a mile a minute about
14 everything under the sun, and I am sure that we
15 talked about everything under the sun, but I don't
16 recall it. I mean -- other than what was written
17 down in response to the Gerth things. That was my
18 focus.

19 Q I show you a document regarding the Chris
20 Wade statement. Bates number is 172, March 11, 1982
21 statement of Chris Wade.

22 A The answer to that is I don't know. I

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1 believe -- I don't know.

2 Q I show a document bears Bates number 315 to
3 16.

4 A Okay.

5 Q Did you prepare this document?

6 A I think I dictated this to my wife. And I
7 think, again, this is not something normally I do,
8 but was at the request of Loretta Lynch.

9 Q I'm sorry, can I have that copy back.

10 A Sure. Your highlighting means nothing to
11 me anyway.

12 Q Do you recall any discussions with
13 Mr. Heuer about the claim of Mr. McDougal, that
14 Mr. McDougal was carrying the Clintons with regard to
15 the Whitewater Development?

16 A Well, this was an issue that came up with
17 the reporter in the conversation with Heuer. And the
18 reporter was contending that, and Heuer was denying
19 it, but not as articulately as I thought he should be
20 able to deny it. I have always thought that the most
21 grievous error of all the Whitewater analysis and
22 investigation has been that never has anybody

1 adequately tracked all the money that McDougal took
2 out of Whitewater. They focused on what he put in.
3 And I think he took a lot more out than anybody has
4 charged to his account.

5 (Discussion off the record.)

6 BY MR. GIUFFRA:

7 Q When did you first learn that Mr. McDougal
8 was taking more money out of the Whitewater account
9 than putting in or commingling funds?

10 A Probably when I went to see Chris Wade. I
11 don't recall when that was, but probably at Flippin.

12 Q And Mr. Wade, did he let you look at the
13 checking account?

14 A Well, he let me look at some escrow
15 contracts and I found there were payments coming in
16 there and found they weren't going to the
17 corporation, they were going straight to McDougal.

18 Q Did you ever obtain any Whitewater records
19 from any source other than Mr. Wade?

20 A Yes, ultimately, I obtained a bunch of them
21 from David Kendall.

22 Q Did you fly in today for this deposition?

172

1 A No, I came in last night.

2 Q You didn't stay at the White House;
3 correct?

4 A I did not.

5 Q You haven't been to the White House today?

6 A I have not.

7 Q Okay.

8 MR. COLE: You are irrepressible, Bob.

9 MR. GIUFFRA: That's my job.

10 MR. TAYLOR: To ask if he had been to the
11 White House today?

12 THE WITNESS: I admit to looking out my
13 window at the Washington Monument.

14 BY MR. GIUFFRA:

15 Q Here is a memo, Bates number LML 161
16 through 164, do you recall seeing this before?

17 A I have seen this, but I don't know that I
18 actually got it in the context of the campaign, but
19 I've seen it.

20 Q Do you recall any discussion with anyone
21 during the campaign about Rose's representation of
22 Madison?

1 A Oh, I am sure there was some after the
2 initial Gerth article, then there was a flurry of
3 articles and a flurry of press interests. And I'm
4 sure there was discussion between people and the
5 campaign that shows I got a copy of that memo. I
6 just -- and I am not saying I didn't get one
7 contemporaneously, I just don't remember.

8 Q I show you another document, bears Bates
9 number 34 through 61. Would you take a look at this?

10 A Yes. What about it?

11 Q Did you prepare this document?

12 A Yes.

13 Q What is it?

14 A It's a set of notes, basically, or roughly
15 chronological, which I compiled while going through
16 David Kendall's files.

17 Q And these notes were prepared at what time
18 period?

19 A Well, I don't know. But they would have
20 been prepared --

21 Q In '94?

22 A Probably '94, or late '93, I don't -- on or

1 after January 20, 1993 and before '95.

2 Q Let me turn your attention to page 35.

3 A 35, okay.

4 Q There is a reference here, says "February
5 '92" -- "82," excuse me, "MJ appointed commissioner,
6 owns Securities Bank of," I would assume,
7 "Paragould"?

8 A Yes.

9 Q Then there is another entry below that,
10 "March '82 letter from McDougal to Bill, I have paid
11 from Whitewater Development Corporation note you owed
12 Citizens Bank of James" -- if you could read it.

13 A Well, here is the best I can do. "February
14 '82, MJ," you got to assume Marlon Jackson,
15 "appointed commissioner of Securities Bank of
16 Paragould. March '82 letter from McClinton to
17 Bill" --

18 MR. COLE: Is that McDougal to Bill?

19 THE WITNESS: "McDougal to Bill. I have
20 paid from" or "for" or something, "Whitewater
21 Development Corporation note you owed Citizens Bank
22 of Jonesboro. You are correct in your belief that

1 the sum of money borrowed was a part of your
2 investment in Whitewater."

3 BY MR. GIUFFRA:

4 Q That's just you taking down what was in the
5 actual letter?

6 A That's right.

7 Q Turn to page 40.

8 A Okay.

9 Q Now turn to the entry 113.

10 A Okay.

11 Q 113, to Flowerwood Farms, could you read
12 that entry?

13 A Well, check number 113 and I believe that
14 to be a check number of Whitewater Development
15 Corporation to Flowerwood Farms, Inc., \$1000, "to
16 repay loan," which I presume would either have been
17 written on the stub of the check.

18 Q You literally went to Mr. Kendall's office
19 and looked through a whole bunch of documents?

20 A That's right.

21 Q Did you make any use of the notes that you
22 prepared after you looked at these documents?

1 A Ultimately, no. I was at one time going to
2 do a spreadsheet and sit down and try to determine in
3 part how much money McDougal had taken out of
4 Whitewater, but I decided it wasn't my problem, it
5 wasn't my job, and I didn't do it.

6 Q What do you know about something called
7 Flowerwood Farms?

8 A I believe it to be a corporation, which
9 McDougal either owned or operated that was probably
10 engaged in development, but I don't know anything
11 about it.

12 Q Do you know of any involvement by
13 Mrs. Clinton with regard to Flowerwood Farms?

14 A As far as I know, she has none that I know
15 about.

16 Q Do you know of any notes that Mrs. Clinton
17 has either guaranteed or signed relating to
18 Flowerwood Farms?

19 A I don't know of any. Never heard of them.

20 Q Let me show you a document, bears Bates
21 number S 12535, just pay attention to the -- look at
22 the highlighted portion. Do you know what that

1 reference -- I will read it into the record, "1986
2 new statement of purpose, Flowerwood collateral as a
3 maker."

4 A I have never seen this document, and I
5 don't know what that means.

6 Q Okay.

7 A "New statement of purpose" usually refers
8 to a corporation's charter and the purposes for which
9 it is incorporated. And sometimes you get a restated
10 charter, but I have no specific knowledge of that.

11 Q How did you go about preparing these notes?

12 A Well, I was writing as fast as I could.

13 Q Did this take you several days?

14 A I think so.

15 Q Did you just sit in the conference room and
16 go through files?

17 A That's right.

18 Q And what were you attempting to do in
19 preparing these notes?

20 A It's been asked and answered.

21 Q You said you were going to prepare a
22 spreadsheet, but that was the focus of this

1 chronology was to prepare a spreadsheet?

2 A Correct.

3 Q And you were trying to identify relevant
4 documents that you might need to prepare this
5 spreadsheet?

6 A Right.

7 Q After you reviewed the documents over at
8 Mr. Kendall's office, did you discuss what you had
9 looked at with anyone?

10 A Yes.

11 Q Did you meet with Bruce Lindsey, for
12 example?

13 A No, I don't think so.

14 Q I show you a document that bears the Bates
15 number 696 through 712. They may be a number of
16 documents.

17 A Okay.

18 Q Have you ever met with Sheffield Nelson
19 about anything having to do with Whitewater or
20 Madison?

21 A No.

22 Q Do you have a copy of this transcript from

1 Bill Simmons --

2 A Bill Simmons is the bureau chief of the
3 Associated Press in Arkansas, and yes, I've traded
4 him out of this document.

5 Q What do you know about the circumstances
6 surrounding this taped conversation?

7 A I -- understand that it is a conversation
8 where McDougal went to Sheffield to complain about
9 Jim Guy Tucker and to get something done about him,
10 and Sheffield then got him directed over to Clinton
11 and turned the tape recorder on and they taped at
12 least part of the conversation. And this wound up in
13 the hands of Newsweek, in the hands of the Minority
14 staff of the House Banking Committee, and probably in
15 the hands of Mr. Bosse over there, among others. Oh,
16 and obviously in the hands of the Associated Press.

17 Q There are some handwritten notes on the
18 version that was provided to us by you. Are those
19 your notes, for example, on page 697, it says "tax
20 return, 9000"?

21 A That looks like that might be my note.

22 Q And there is another one on 705, says

1 "Blair," the man -- the man -- "the name" of?

2 MR. COLE: "The name means nothing to me."

3 BY MR. GIUFFRA:

4 Q It looks like that. Is that you?

5 A I think I was talking to somebody on the
6 telephone, and they asked me who Chuck Lyber was.

7 Q Is that your handwriting?

8 A I believe so.

9 Q And the word "Blair"?

10 A Blair, question mark, I believe that was
11 from Bill Simmons. I believe Bill was asking me who
12 Lyber was and I told him and I guess wrote down while
13 I was telling him that the name means nothing to me.
14 And it doesn't.

15 Q "Market speculation desk of Hillary's,"
16 what does that have to do with it?

17 A I make no sense out of it. I didn't
18 transcribe the tape, I didn't hear the tape. Maybe
19 that's not what was on the tape. It doesn't make any
20 sense. I mean, that makes no sense.

21 Q Could that possibly relate to commodities
22 trading by Mrs. Clinton?

1 A It possibly could, but I would -- it would
2 be futile speculation on my part.

3 Q You testified you haven't discussed
4 anything having to do with Whitewater or Madison with
5 Mrs. Clinton at any point, I believe is your
6 testimony?

7 A I made a conscious effort to try not to,
8 yes.

9 Q Did you ever have anything to do with
10 commodities trading with Mrs. Clinton?

11 A That's outside the scope of Senate
12 Resolution 120.

13 Q All I am asking you is, did you ever
14 discuss it with Mrs. Clinton?

15 MR. COLE: I don't think he has to answer
16 that. That's so clearly outside the scope, it has no
17 bearing on anything we're looking at so I will
18 instruct him not to answer.

19 MR. GIUFFRA: You can instruct him not to
20 answer all you want.

21 MR. TAYLOR: I am going to tell him not to
22 answer. He is not answering it.

1 THE WITNESS: On the advice of all the good
2 lawyers in this room, I am not going to answer it.

3 BY MR. GIUFFRA:

4 Q Do you know if the Clintons ever took any
5 money out of Whitewater?

6 A To the best of my recollection, no.

7 Q Because the Clintons only put money in?

8 A That's the best of my recollection.

9 Q Do you know approximately how much money
10 they put into Whitewater?

11 A Depending on, I suppose, how you count it,
12 something around 40 or \$50,000, I think.

13 Q Do you recall the amount of money that the
14 Clintons were said to have put into Whitewater during
15 the campaign?

16 A I believe the phrase 68,000 comes to mind.

17 Q And you now believe it is a lower amount?

18 A I believe that figure is wrong.

19 Q Why do you believe that figure is wrong?

20 A I believe it includes a loan from some
21 bank -- in payments on that loan that had to do with
22 another piece of property and didn't have anything to

1 do with Whitewater.

2 Q Okay, back in 19 -- when the Clintons first
3 got involved in -- first invested in Whitewater in
4 1978, do you know whether they put any money into
5 Whitewater?

6 A Well, this gets into semantics, but in my
7 opinion, they did. They personally borrowed \$20,000,
8 from, I believe, the Union Bank, and then they
9 personally signed a note, I believe it was at the
10 bank at Flippin for 178,000 or whatever it was, and
11 so it would seem to me that the answer to that would
12 be yes.

13 Q But do you know whether they ever put in
14 any cash other than taking out loans?

15 A I don't believe they did. Except where
16 they made payments on taxes and other obligations,
17 that were obligations of Whitewater, they would have
18 in effect put cash in.

19 Q Do you know approximately how much money
20 that would have constituted?

21 A I think when you add up all the interest
22 payments and add up all the tax payments, you are

1 somewhere above 40 and somewhere short of 68,000.
2 40,000 and 68,000. I never did actually run this
3 myself. They wrote a check for \$9000 for one of
4 McDougal's other corporations, that's where
5 McDougal's confused in the transcript. They deducted
6 that as an interest payment on Whitewater, which it
7 was. They were reimbursing his corporation that made
8 the payment, and he just got confused and forgot
9 about it. So, it is a little hard at times to put it
10 together.

11 Q You are talking about on page 697?

12 A I am talking about where we were looking at
13 my note. Yes. The figure is \$9000, not \$9500.

14 Q And you believe McDougal is incorrect
15 there?

16 A Yes.

17 Q Why do you believe he is incorrect?

18 A Because I believe he just forgot what
19 happened, that the \$9000 check was made to -- I don't
20 remember, Flowerwood Farms or Great Southern Land
21 Company or one of his other many development
22 corporations, because that's the way he asked them to

1 do it and because apparently the payment had been
2 made out of that and they were reimbursing him. I do
3 remember checking it, but I have forgotten now.

4 Q You don't know where the \$9000 came from;
5 that was from the Clintons?

6 A Yes, it came from the Clintons, came out of
7 their personal funds.

8 Q And they deducted that from their personal
9 funds?

10 A Yes.

11 Q It did not go to Whitewater, it went to one
12 of these other McDougal-related entities?

13 A To reapply the money that that related
14 entity had expended on behalf of Whitewater.

15 MR. COLE: Specifically on behalf of
16 Clintons, their share of the interest payment?

17 THE WITNESS: Right, exactly.

18 BY MR. GIUFFRA:

19 Q Following the Clinton campaign -- strike
20 that.

21 During the campaign, there was an attempt
22 to gather Whitewater-related documents; right?

1 A Yes.

2 Q Do you know what happened to those
3 documents after the campaign?

4 A I have no idea.

5 Q Were you aware until recently that
6 Mr. Hubbell had certain documents relating to
7 Whitewater in his basement here in Washington?

8 A I was not.

9 Q When did you first learn of an
10 investigation being conducted involving Mr. Hubbell
11 and his billings?

12 A By whom?

13 Q By the Rose Law firm.

14 A Sometime after he was sworn in as Deputy or
15 Assistant Attorney General or whatever the title was.

16 Q So sometime in '93?

17 A Yes.

18 Q Would that have been before or after
19 Mr. Foster's death?

20 A I'm not positive, but I believe it would
21 have been before.

22 Q Do you believe he ever discussed this

1 investigation with -- strike that.

2 How did you learn of this investigation by
3 the Rose Law Firm into Mr. Hubbell's billing --

4 A I learned it from Rose Law Firm partners.

5 Q Do you recall who you might have learned it
6 from?

7 A Well, I discussed it with several of them.

8 Q Do you recall who?

9 A Yes. A guy named Jerry Jones -- no, Jerry
10 Jones is Dallas Cowboys -- there is a Jerry Jones, a
11 guy named Jerry Jones, a woman named Amy.

12 Q Stewart?

13 A Stewart. I think I may have talked at one
14 point to Ron Clark, a guy named Les Baledge.

15 Q Why were they contacting you about their
16 investigation that they were conducting of
17 Mr. Hubbell's billings?

18 A There was an effort on the part of the Rose
19 Firm to -- let me stop and ask Lawyer Cole a
20 question. We are in 120, do you think?

21 MR. COLE: We are in a real gray area of
22 120 since some of those billings were related to

1 Madison Guaranty. I suppose I can't raise any
2 question although I am not sure that this is fair to
3 the Rose Law Firm, but I leave that to Mr. Giuffra's
4 judgment.

5 MR. GIUFFRA: Plus we have had testimony
6 about this subject repeatedly throughout the
7 hearings.

8 THE WITNESS: They were making an effort to
9 get Mr. Hubbell to turn over some records to this
10 thing -- they were concerned about some
11 discrepancies. I inserted myself as I frequently
12 do. I inserted myself into this matter, and I was
13 interested in the seriousness of it, and I had
14 conversations with both Web Hubbell and members of
15 the Rose Firm, back and forth, and at some point --

16 BY MR. GIUFFRA:

17 Q You were sort of acting as a liaison?

18 A If you want to use that beautiful word,
19 "liaison," I may have at some point been acting as
20 such.

21 Q Do you recall when you might have spoken to
22 Ms. Stewart about Mr. Hubbell's billings?

1 A I think it was later that I talked to Amy.
2 I think that might have been as late as -- what, he
3 resigned in March of '94? I think it might have been
4 early '94.

5 Q Did you ever discuss Mr. Hubbell's
6 billing -- the issue of Mr. Hubbell's billings with
7 Mrs. Clinton?

8 THE WITNESS: Lance?

9 MR. COLE: Why don't we go off the record
10 for a minute and discuss this.

11 (Discussion off the record.)

12 THE WITNESS: At some point, I told the
13 Clintons that, in my opinion, Web Hubbell needed to
14 resign as quickly as possible.

15 BY MR. GIUFFRA:

16 Q Do you recall when that was?

17 A In March of 1994.

18 Q Would you have had any conversations with
19 either of the Clintons prior to March of 1994 about
20 this issue of Mr. Hubbell's billings?

21 A I don't think so. I was still hoping Web
22 and the Rose firm would work it out.

1 Q When you were talking to Mr. Hubbell about
2 his billings, did the issue of any Whitewater
3 documents come up or any Rose Law Firm documents?

4 A No.

5 Q Now, after Mr. Hubbell resigned, what was
6 that, March of 1994?

7 A I believe it was something like March 17 of
8 1994.

9 Q Did you have any discussions with -- have
10 you had any discussions since March 17, 1994, with
11 Mr. Hubbell about anything having to do with
12 Whitewater or Madison --

13 A No.

14 Q -- or the Clintons?

15 A No. Well, when you say "or the Clintons,"
16 maybe, yes. I asked him at one point was he coming
17 to some party at the White House, and he said he
18 wasn't going to do that, he wouldn't embarrass them.
19 But he did get an invitation, he didn't come and I
20 don't remember what the party was and --

21 Q Have you ever heard of an entity called
22 Lippo?

1 A Sounds like something you would find in
2 Indonesia.

3 Q Do you know of a relationship between Lippo
4 and the Worthen Bank?

5 MR. COLE: What's the nexus to the
6 resolution here, Bob?

7 MR. GIUFFRA: We have had questions on this
8 subjects.

9 MR. COLE: As I recall, there were
10 objections raised on this question.

11 MR. GIUFFRA: And I think the Chairman let
12 the question go forward.

13 MR. COLE: The Chairman is not here right
14 now. That wasn't this witness.

15 MR. GIUFFRA: It is precedent. I am only
16 asking a few questions.

17 THE WITNESS: I am going to answer some
18 background questions because I know so little about
19 it. I think it is easier to run through it than to
20 play with it, even though I don't think it is within
21 the scope. Do I know James Riadi? Yes. Do I know
22 that the Riadis had an investment in Worthen Bank?

1 Yes. Beyond that, do I know very much about it?

2 No.

3 BY MR. GIUFFRA:

4 Q Do you know anything surrounding the
5 circumstances -- do you know anything about the
6 circumstances surrounding the retention of
7 Mr. Hubbell by Lippo or by Mr. Riadi?

8 A Maybe.

9 Q What do you know about the circumstances
10 surrounding the retention of Mr. Hubbell by Lippo or
11 Mr. Riadi?

12 A I may not know anything, but what I believe
13 is that Worthen Bank had a big-time repo blow up on
14 them. And Worthen Bank was in big, big trouble.

15 And the Stephens family and the Riadis put
16 additional capital in Worthen to keep it alive and
17 viable, and rescue it.

18 And then there was a lawsuit between --
19 well, it was between one of the strike lawyers from
20 New York that I'm sure your old firm's had to deal
21 with, and it starts with an A or something, I can't
22 think of his name. But one of the usual strike

1 lawyers filed a derivative strike suit on behalf of
2 some of the shareholders of Worthen, and the Rose
3 litigation team, which was primarily headed up in
4 this particular instance by Web, was involved in that
5 lawsuit in some major capacity. And I think that's
6 where he got acquainted with the Riadis. And that's
7 about all I know.

8 Q You don't know anything about any retention
9 of Mr. Hubbell after March 17, 1994 by Mr. Riadi or
10 Lippo?

11 A No, not after that date.

12 Q Do you know Beryl Anthony?

13 A Yes.

14 Q Are you aware that Mr. Anthony works for --
15 does some lobbying work for Lippo and for the Riadis?

16 A I thought his client was Disneyland or
17 Disney World or Disney Company.

18 Q You are not aware he represents Mr. Riadi
19 or Lippo?

20 A No.

21 Q Or Worthen Bank?

22 A No.

1 Q Do you know who Keith Jones is, the Worthen
2 Bank?

3 A No.

4 Q Do you know who Urlea Walker is, Worthen
5 Bank?

6 A No.

7 Q During the 1992 campaign, was there any
8 concern at the campaign about the commingling of
9 Whitewater funds with other McDougal real estate
10 projects?

11 A During the 1992 campaign, I don't know that
12 we knew that much about it. It was obvious at some
13 point whenever you look at what McDougal did, that he
14 treated all his companies as, you know, with -- he
15 could move money back and forth at will.

16 Q Bates stamp 640 through 695, have you ever
17 seen this document before?

18 A Yes.

19 Q How did you get a copy?

20 A I don't know.

21 Q Was it given to you by Mr. Lindsey?

22 A No. I don't think so. No, I don't think

1 so.

2 Q Did you receive it during the campaign?

3 A I don't think so, I think I got it after
4 the campaign was over.

5 Q And do you recall discussing this report
6 with anyone, for example, Beverly Bassett Schaffer?

7 A I never discussed it with Beverly Bassett
8 Schaffer.

9 Q Archie?

10 A I never discussed it with Archie.

11 Q When did you first learn that Mrs. Clinton
12 had performed some legal services on a matter
13 involving Castle Grande IDC?

14 A I believe this year. I believe after all
15 this flap with the current set of billing records.

16 Q Did you do any investigation into the 1985
17 fundraiser that was held by McDougal at Madison to
18 help retire the Clintons' 1984 campaign debts?

19 A Not really. I did find a list of those
20 people I think, in Kendall's files. I may have put
21 that in my notes. I never interviewed or talked to
22 any of the people.

1 Q You never spoke to Mr. Peacock?

2 A No.

3 Q Do you know Mr. Peacock?

4 A No.

5 Q Were you involved at all in the preparation
6 of Governor Clinton's campaign disclosure form for
7 the 1992 presidential campaign?

8 A No.

9 Q You don't have any information as to why
10 Whitewater Development Corporation was left off the
11 initial -- strike that.

12 Do you have any information as to why
13 Whitewater Development Corporation was left off the
14 initial disclosure form filed by Governor Clinton in
15 connection with the 1992 presidential campaign?

16 A Well, I think the asset was in reality
17 worthless, and a guy named David Ishmael or --

18 Q Ifshin?

19 MR. BOSSE: Ifshin?

20 THE WITNESS: Ifshin was the guy that did
21 that first one. And he left it off because he
22 thought it had no value or he may not have known

1 about it.

2 BY MR. GIUFFRA:

3 Q Do you know who prepared it?

4 A I think it was Ifshin.

5 Q Do you know who reviewed it?

6 A No.

7 Q Let me show you a document, bears Bates
8 numbers 330 through 337. This was sent to you by Les
9 Baledge of the Rose Law Firm. This is a fax from the
10 Rose Law Firm to you, 6/16/94. Did you ask
11 Mr. Baledge to send this to you?

12 A Probably, yes.

13 Q Were you then in communication with
14 Mr. Baledge in any manner?

15 A I am in constant communication with
16 Mr. Baledge.

17 Q Who is Mr. Baledge?

18 A He serves Tyson Foods as its security
19 counsel.

20 Q And do you know why you asked Mr. Baledge
21 to send this to you?

22 A I believe that I was talking to him about

1 something else and he said, yes, we got a subpoena
2 today and I said, no kidding. And we probably had a
3 few words about it and I said would you mind sending
4 me a copy of the subpoena and he said why not.

5 Q That's all you know about this document?

6 A Yes.

7 Q Let me show you another document, Bates
8 numbers 178 to 179, have you ever seen this one
9 before?

10 A I've seen it. Yes, I have seen it.

11 Q Do you know who prepared it?

12 A No.

13 Q When do you think you saw this document?

14 A I think I saw it in Kendall's files.

15 Q There is some handwriting on page 179. It
16 says "I may have called her" or, and then "about
17 the" -- it says "the merits of the matter." Do you
18 know whose handwriting that is?

19 A No.

20 Q Do you know if that's Mrs. Clinton's
21 handwriting?

22 A I don't think so, but I don't know.

1 Q I show you another document, bears Bates
2 numbers 311 to 314. Have you ever seen this document
3 before? This is --

4 A Yes.

5 Q What do you know about this document?

6 A I think this was a campaign document.
7 Because that was another issue that came up, was ADFA
8 renting space from Madison Guaranty, and this looks
9 to me like Loretta Lynch's work but I am not
0 positive.

1 MR. TAYLOR: What's the number?

2 THE WITNESS: 311 to 314.

3 BY MR. GIUFFRA:

4 Q Do you recall any discussions you might
5 have had with anyone about ADFA leases during the
6 campaign?

7 A No. No.

8 Q Did you ever have any discussions with
9 Ms. Wright about leases?

10 A I don't think so.

11 Q Do you know a man named Wooten Epes?

12 A No.

1 Q Paul Mallard?

2 A No.

3 Q Did you ever discuss with Ms. Betsey Wright
4 during the campaign any RTC investigation of Madison?

5 A No.

6 Q She never said anything to you about her
7 hearing of such an investigation?

8 A No. And you should know that Betsey Wright
9 is a control freak who parcels out, in a campaign
10 format or any other format, things and never shares
11 the big picture with anybody. So a lot of the time
12 people in the campaign were working on isolated
13 things which had no visible connection in their
14 mind. It might have a visible connection in Betsey's
15 mind, but --

16 Q Do you know a man named Chuck Banks?

17 A I know who he is.

18 Q Lawyer --

19 A He was -- during the campaign, he was the
20 U.S. Attorney for Eastern District.

21 Q Did you ever have any discussions with
22 Chuck Banks about anything to do with Madison

1 Guaranty?

2 A No.

3 Q Do you know Paula Casey?

4 A I know who she is, but I don't know her.

5 Q Do you have any understanding as to

6 Mr. Clinton's relationship with Dan Lasater?

7 A Do I have any understanding --

8 Q I will rephrase the question. Do you know
9 anything about Governor Clinton's relationship with
10 Dan Lasater?

11 A I know what I read in the papers and that's
12 about it.

13 Q You never discussed Dan Lasater with
14 Governor Clinton?

15 A I have not.

16 Q Let me direct your attention to late 1993,
17 early 1994. Did you have any discussions with anyone
18 in the White House regarding the employment of a
19 special counsel to investigate Whitewater?

20 A I don't think so.

21 Q Anyone ever ask you to speak to either
22 Clinton about the appointment of such a special

1 counsel?

2 A No. I know there are people that thought
3 it was not a good idea, but I don't think anybody
4 ever asked me to speak to them.

5 Q Did you ever have any discussions with Skip
6 Rutherford in 1993 or 1994 about anything having to
7 do with Madison or Whitewater?

8 A I don't know. I have had a few
9 conversations with Skip and I don't recall all the
10 subject matters. I don't specifically recall such a
11 conversation.

12 Q Do you have any general recollection of
13 such a conversation?

14 A No. No. I'm just not willing to say it
15 never happened. I just don't recall it happening.

16 Q How about any discussions with Betsey
17 Wright in 1993 or 1994 about Madison or Whitewater?

18 A I don't think so.

19 Q Are you aware Ms. Wright had traveled to
20 Little Rock in early 1994 to look for documents that
21 might be relevant to an investigation involving
22 Whitewater or Madison?

1 MR. COLE: I think that mischaracterizes
2 her testimony, but you can ask the question, but
3 that's not what she testified she did.

4 THE WITNESS: I don't think so.

5 BY MR. GIUFFRA:

6 Q Did you ever attend any meetings at the
7 White House in 1993 or 1994 or 1995 regarding
8 Whitewater or Madison?

9 A I don't think so.

0 Q You have been an overnight visitor at the
1 White House?

2 A Yes.

3 Q On how many occasions?

4 A I don't know.

5 Q More than one?

6 A Yes.

7 Q More than 10?

8 A Yes.

9 Q More than 15?

0 A Yes.

1 Q More than 20?

2 A Yes.

1 Q 30?

2 A Probably.

3 MR. COLE: How far are you going to go? I
4 am curious to see where you stop on this one.

5 MR. GIUFFRA: You don't need to stay in a
6 hotel in Washington, is that right?

7 MR. TAYLOR: Saving the taxpayers money.

8 BY MR. GIUFFRA:

9 Q Do you know how many times you stayed at
0 the White House since Clinton became President?

1 A I believe it to be more than 30.

2 Q 50?

3 A I doubt it.

4 Q Somewhere between 30 and 50?

5 A That's a fair bracket.

6 Q Have you ever used the exercise room on the
7 third floor of the White House?

8 A Residence, yes.

9 Q In order to go to the exercise room, have
0 you passed through a room called the book room?

1 A Yes.

2 Q What do you recall about the book room?

1 A When they first moved in, it was an
2 incredible jumble of boxes and files and things.
3 It's gradually, over time, been kind of cleaned up,
4 and occasionally I have gone through there and
5 there's been somebody that I didn't recognize working
6 at a table there.

7 Q A woman with brunette hair?

8 A You know, I don't -- I don't remember now
9 whether it was a young man or a young woman. It was
10 not a middle-aged person. It was a young person.

11 Q You don't ever recall seeing any Rose Law
12 Firm billing records when you were passing through
13 the book room?

14 A I do not.

15 Q You never saw any Rose Law Firm billing
16 records on any of the many occasions when you were at
17 the White House residence staying as an overnight
18 guest?

19 A I did not.

20 Q Do you think you would recall seeing Rose
21 Law Firm billing records had you seen them in
22 retrospect?

1 A In retrospect, I believe I would, yes.

2 Q Did you ever attend any meetings with
3 Mr. Lyons at the White House?

4 A I may have attended some social occasions
5 with Mr. Lyons at the White House, but I don't
6 believe I ever attended any meetings with him.

7 Q Have you ever attended any meetings with
8 Mr. Kendall at the White House?

9 A I don't think so.

10 Q Have you ever attended any meetings with
11 Mr. Kendall in Mr. Kendall's offices?

12 THE WITNESS: What's my lawyer say to
13 that?

14 MR. TAYLOR: Don't answer.

15 BY MR. GIUFFRA:

16 Q I am asking have you attended a meeting.

17 A I understand, but I guess we got to draw a
18 line somewhere. That's as good as any.

19 MR. GIUFFRA: Can we go off the record for
20 a second.

21 (Discussion off the record.)

22 BY MR. GIUFFRA:

1 Q Since January 20, 1993, do you recall
2 discussing Whitewater/Madison with Bruce Lindsey?

3 A Other than what I have testified to in my
4 telephone deposition?

5 Q That's it?

6 A No.

7 Q Just to be sure, because we talked about
8 your telephone deposition, I want to be clear, 140 to
9 148, part of your file, we can all appreciate the
10 difficulty of doing documents by telephone.

11 A Okay.

12 Q Do you have any recollection now as to how
13 you got this document?

14 A No.

15 Q Do you have any -- if you were to venture a
16 guess as to how you got this document, do you believe
17 you got it from someone at the White House or someone
18 at the Treasury Department?

19 A I would doubt either. I would think most
20 probably it was from a lawyer friend in D.C., or from
21 Kendall.

22 Q Do you know who the lawyer friend in D.C.

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1 might be?

2 A Oh, it could be a hundred people. No, I
3 don't know where I got it. Give me a list of the
4 lawyers that had it and I'll try to eliminate.

5 Q Have you had any discussions with anyone at
6 the White House about documents that were located in
7 Mr. Foster's office at the time of his death?

8 A No.

9 Q Did you ever have any discussions with
10 anyone at the White House about how to handle those
11 documents in Mr. Foster's office after his death?

12 A No.

13 Q No discussions about the process by which
14 those documents would be reviewed by law enforcement
15 following Mr. Foster's death?

16 A As you no doubt know, I was not anywhere
17 near Washington at Vince Foster's death.

18 Q I have another document, LML 16 -- sorry,
19 never mind. I apologize.

20 This is ST 31. It is a reference to you,
21 these are notes of Mrs. Thomases.

22 A Okay.

1 Q This doesn't refresh your recollection
2 about ever discussing the '84 campaign fundraising
3 that McDougal might have done for Governor Clinton?

4 A No. And I don't see any reference to me in
5 connection about that.

6 Q This is just a reference to you and then
7 discussion follows.

8 A Yes.

9 Q Okay. I show you another document, DKS
10 28208 through 28212. Do you know whose handwriting
11 this might be?

12 A It is not mine, and I don't know.

13 Q Did anyone ever ask you during the campaign
14 to track down something regarding the Union National
15 Bank of Little Rock?

16 A I don't think so. That was where I think
17 the initial 20,000 was borrowed, that was the down
18 payment.

19 Q This is a document I am going to show you
20 ST 40, looks like Ms. Thomases's notes.

21 A "Jim Blair will track down Union Bank of
22 Little Rock." Well, it's still there.

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1 Q Let me show you another document, 361 to --
2 it's a whole bunch of documents. 361. Do you know
3 why you would have this in your files?

4 A No. I know I have a little Tucker stuff
5 and I don't know why I got it and I don't know where
6 I got it.

7 Q Well, I will put the Bates numbers on.
8 361, 396, 397, 398, 399, 400, 401, 402, 423, 501,
9 502, 432, 33 through 60.

10 A I may have been trading with some reporter
11 who didn't have any good trading material and I took
12 it because I thought I could recirculate it and maybe
13 trade it for something better.

14 Q You don't know how you got it?

15 A I don't recall.

16 Q Do you recall discussing the issue of
17 whether the Clintons owed back state taxes with
18 Loretta Lynch in connection with her investment in
19 Whitewater?

20 A I either discussed it with her; I may have
21 discussed it with somebody else after she wrote a
22 memo which everybody thought was wrong.

1 Q And what was the resolution on the question
2 of the state taxes?

3 A I don't remember what they finally did, but
4 she was a long way from being a tax lawyer, and while
5 I don't claim to be one, my practice does
6 occasionally take me off in that area, and as I
7 recall, her memo was just in left field.

8 Q What was wrong with her memo?

9 A Well, let me see a copy of it and I will
0 try to tell you.

1 MR. TAYLOR: With the caveat that you are
2 not a tax lawyer.

3 THE WITNESS: Well, could I become one?

4 MR. GIUFFRA: We don't need to take
5 advantage of your tax expertise today.

6 BY MR. GIUFFRA:

7 Q Have you ever discussed Jim McDougal with
8 Ms. Riley, Claudia Riley?

9 A I don't think so. Now, it's possible that
10 I may have made one call down there trying to find --
11 when I was trying to find McDougal initially, but I
12 don't think so. I did not attend Susan's press

1 conference and I don't believe I've seen Ms. Riley in
2 years.

3 Q Did you ever make a contribution to the
4 McDougal defense fund yourself?

5 A I did not.

6 Q Do you know whether anyone has made a
7 contribution to that fund?

8 A I don't know that anyone has.

9 Q Did you ask anyone to make a contribution
10 to the McDougal defense if you know?

11 A I did not. Would you like to?

12 Q Other than things you've testified to
13 previously, did you attend any meetings at the White
14 House at which there was a discussion of David Hale?

15 A No.

16 Q Now, with regard to the Citizens Bank loan
17 that Mr. Wade was going to pay off for the Clintons,
18 do you know how he got the money to pay that loan?

19 A It's been asked and answered.

20 Q You don't know? Do you know if he
21 borrowed --

22 A That was my original answer and I am not

1 changing it now.

2 Q Do you know if he borrowed the money from
3 anyone?

4 A I don't know.

5 Q Let me show you another document, bears
6 Bates numbers 167 through 169. It is a statement of
7 Sam Heuer, attorney for Jim McDougal.

8 A Yes.

9 Q Would you have prepared this document?

10 A I might have. I'm not positive, but I
11 could have.

12 Q Approximately how many conversations would
13 you have had with Mr. Hubbell in 1993 about the
14 matter of his billing records?

15 A I wouldn't phrase it as a "matter of his
16 billing records." I would phrase it as a matter of
17 his controversy with the Rose Law Firm.

18 Q Okay, with regard to his controversy with
19 the Rose Law Firm.

20 A And I had maybe a half dozen.

21 Q Did you ever meet with him?

22 A Well, not in the sense that --

1 Q Did you have a face-to-face meeting or were
2 these communications all by telephone?

3 A No, I had face-to-face meetings, but it was
4 like in a corner at a gathering somewhere. It wasn't
5 a matter of sitting down in an office or something.

6 Q What did Mr. Hubbell say to you about the
7 controversy he had with the Rose Law Firm?

8 A He told me that he would work it out.

9 Q And by "work it out," what was he going to
10 do, work it out?

11 A I don't know. My advice to him was that he
12 should go down there and say, look, I don't know how
13 much money you say I owe you but I will accept your
14 figure and tell me how much money you think I owe
15 you, and I will borrow the money and write you check
16 and I begged him to do that.

17 They were asking him to give them his
18 credit card files or receipts or whatever and he kept
19 promising that he would do it, and he never did it.
20 At some point, I began to call his attention that the
21 support he had in the firm was eroding because his
22 chief supporters in the firm had gone out on a limb

1 for him too many times, and they were becoming
2 unhappy with him.

3 Q Now, you will agree that Mr. McDougal made
4 some comments to Mr. Gerth that members of the
5 Clinton campaign would have wished he had not made;
6 isn't that right?

7 A I agree.

8 Q Do you recall what the comments were in
9 particular members of the campaign would not have
10 wanted Mr. McDougal have made?

11 A No, if you will show me the articles, I
12 will try to point them out but no, I don't.

13 Q You would agree that after -- sometime in
14 1992, Mr. McDougal ceased, to some extent, stopped
15 speaking to the press?

16 A I don't know that I agree with that. If he
17 did, it was only -- I mean, he would disappear and
18 then resurface, kind of like a -- you know, I don't
19 know that.

20 Q You don't know of any action being taken by
21 anyone, at the campaign or any agent or
22 representative of the Clintons with regard to

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1 Mr. McDougal that might have caused him to -- that
2 might have affected what he said about the Whitewater
3 Corporation investment?

4 A No.

5 MR. GIUFFRA: Would you read that question
6 and answer back. I think it was a poorly phrased
7 question.

8 THE WITNESS: And I might want to slightly
9 amend my answer, so let's read it back.

10 (The reporter read the record as requested.)

11 THE WITNESS: Now let me amend my answer.
12 Other than what I did and said, which I've already
13 testified to, the answer is no.

14 BY MR. GIUFFRA:

15 Q And what you did, so it is clear, would be
16 speaking to Mr. Heuer, speaking to Mr. McDougal, and
17 sending that letter to Mr. McDougal?

18 A Right.

19 MR. GIUFFRA: The letter was to Mr. Heuer,
20 I misspoke.

21 BY MR. GIUFFRA:

22 Q Have you ever --

1 A If it would speed it up any, I would be
2 willing for Mr. Bosse to ask the questions, if that
3 would speed it up. Just offering.

4 MR. COLE: Never hurts to ask, right?

5 THE WITNESS: Yes.

6 MR. GIUFFRA: I believe, Mr. Blair, that I
7 have concluded my examination. Mr. Cole.

8 MR. COLE: Well, I think in view of the
9 lateness of the hour and the fact that Mr. Blair has
10 a plane to catch, and you have been very thorough in
11 your questioning and he has been very forthcoming and
12 cooperative, I think that I will not ask any
13 questions at this time. Perhaps ask questions if we
14 have him at the hearing.

15 (Whereupon, at 6:10 p.m., the deposition
16 was concluded.)

17

18

19

JAMES B. BLAIR

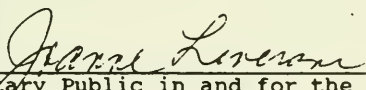
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JOANNE LIVERANI, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

JULY 31, 2000

**DEPOSITION OF NICOLE K. SELIGMAN
IN RE: S. RES. 120**

MONDAY, FEBRUARY 19, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of NICOLE K. SELIGMAN, called for examination pursuant to notice of deposition, at 3:05 p.m. in Room 526 of the Dirksen Senate Office Building, before JULIE BAKER, a Notary Public within and for the District of Columbia, when were present:

DOUGLAS R. NAPPI, Esq.
Majority Counsel
NEAL E. KRAVITZ, Esq.
Minority Principal Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

MICHAEL S. SUNDERMEYER, Esq.
Williams & Connolly
725 Twelfth Street, NW
Washington, DC 20005
On behalf of Williams & Connolly Law Firm

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P R O C E E D I N G S

Whereupon,

NICOLE K. SELIGMAN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. NAPPI:

Q Please state your name for the record.

A Nicole K. Seligman.

Q Where are you presently employed?

A At Williams & Connolly in Washington.

Q Are you a partner of that firm?

A Yes.

Q How long have you been employed at Williams & Connolly?

A Since the fall of 1985.

Q Have you told anyone about your appearance here today, other than members of your firm?

A I may have mentioned it to one or two personal friends.

4

Q Were those discussions related to your testimony here today?

A You mean to the substance?

Q Yes.

A No.

Q Have you been involved in the representation of Bill and Hillary Clinton by your firm?

A Yes.

Q Are you the partner primarily responsible for that representation?

A No.

Q Do you work under David Kendall?

A Yes, I do.

Q Have you been involved in the search and collection of documents responsive to subpoenas and requests by investigatory agencies and the United States Congress?

A Yes.

Q Have you supervised the response to the various requests?

A That's difficult to answer. I've certainly

1 participated in it, and certain aspects of it I might
2 have had more responsibility for than others. I'm
3 not sure what you mean by "supervise."

4 Q Can you quantify those areas that you've
5 had primary responsibility for?

6 A That's very difficult to answer unless you
7 parse out what you mean. I might have organized
8 looking through a certain set of boxes in what
9 particular place, but I don't know that that
10 constitutes supervision or primary responsibility.

11 Q Let me return to that.

12 I'd like to show you a document that was
13 produced by Williams & Connolly, Bates stamp number
14 DKSX 028928 through 029042 -- excuse me, 43.

15 MR. SUNDERMEYER: What's the first number?

16 THE WITNESS: 028928.

17 MR. SUNDERMEYER: This is the actual
18 document that was produced?

19 MR. NAPPI: This is the actual document
20 that was produced. In light of the problems that
21 we've had in the past with government copying
22 machines, we decided to go with the source document.

1 MR. SUNDERMEYER: Good. I won't bother
2 checking all the numbers. I didn't realize that this
3 morning so I checked all the numbers, but I won't do
4 that again.

5 MR. KRAVITZ: I was hoping you were going
6 to say that.

7 BY MR. NAPPI:

8 Q Have you ever seen this document before?

9 A This particular copy or documents are the
10 same document, whether or not this particular copy.

11 Q Documents that are the same copy -- prior
12 generations in the copying chain of this document.

13 A I'm not playing games. I don't know if I
14 saw the particular copy that came to your office. I
15 have seen this document with either these numbers on
16 it or other numbers on it.

17 Q When did you first see this document?

18 A Again, answering the -- I assume we're
19 referring to the records that were identified on
20 January 4th and generally.

21 Q Okay, fair enough. When I say "this
22 document," I'm referring to, if not this particular

1 copy of it, a prior generation copy of this source
2 document.

3 A On January 5 of this year.

4 Q When did you first learn of the discovery
5 of this document in the White House residence?

6 A The afternoon of January 4.

7 Q How did you learn of the discovery of this
8 record?

9 MR. SUNDERMEYER: Hold on one second.
10 (Witness conferred with counsel.)

11 THE WITNESS: From Mr. Kendall.

12 BY MR. NAPPI:

13 Q Do you recall what time of the day you
14 learned of it from Mr. Kendall?

15 A I don't recall whether I had one
16 conversation or two with Mr. Kendall in the afternoon
17 of the 4th, which makes that question a little bit
18 hard to answer. It was either midafternoon or late
19 afternoon.

20 Q By "midafternoon," do you mean 3:00?

21 A I don't remember. If I learned it at that
22 point, it was a very brief conversation in which I

1 simply was informed that Mrs. Huber had found the
2 records. I just don't remember if I learned it then,
3 or if I learned it --

4 Q Was it a telephone conversation?

5 A Yes.

6 Q Was Mr. Kendall at the White House when he
7 called you?

8 A I don't know.

9 Q Do you recall what Mr. Kendall told you?

10 A Let me answer with what happened in either
11 one or two calls in that afternoon.

12 Q Sure.

13 A He told me that Mrs. Huber had found Rose
14 billing records in her East Wing office. He asked me
15 to see if the law firm had a camera so that he could
16 take pictures of where they were found, and we talked
17 briefly, logistically, about how I might be able to
18 get that over to him.

19 Q Other than discussions regarding a Williams
20 & Connolly camera and the delivery, there were no
21 other contacts between you and Mr. Kendall on the 4th
22 regarding discovery of this record?

1 A Well, there may have been more about what
2 to do if the firm didn't have a camera, but putting
3 the camera aside, I recall no other discussions about
4 the discovery.

5 Q He did not discuss any conversations you
6 may have had with Jane Sherburne or Hank Schuelke?

7 A No.

8 Q And you had no other conversations with
9 anyone else regarding the discovery of these records
10 on January 4th?

11 A No.

12 MR. SUNDERMEYER: Again, setting aside the
13 camera.

14 THE WITNESS: Right.

15 BY MR. NAPPI:

16 Q You first saw these records on January 5th?

17 A That's right.

18 Q Do you recall approximately what time?

19 A It would be a guess. I would guess
20 midmorning, mid- to late morning.

21 Q And who showed you these records?

22 Mr. Kendall?

10

1 MR. SUNDERMEYER: Object to the form.

2 BY MR. NAPPI:

3 Q Did Mr. Kendall show you these records?

4 A I don't recall that he did. I remember
5 they were in his office.

6 Q Why don't you describe the circumstances
7 under which you came to first see these records on
8 January 5th.

9 A I walked into Mr. Kendall's office, and the
10 original and a copy were sitting on a couch in his
11 office.

12 Q Was Mr. Kendall in the office?

13 A He was there that morning. Whether he was
14 there when I first walked in, I don't remember.

15 Q And did you examine the records?

16 A Yes.

17 Q Did you examine the original or the copy?

18 A I have to define what I mean by the word
19 "examine." I asked somebody at some point fairly
20 early on whether the originals had been checked
21 against the copy to make sure that the copy was
22 accurate. And I don't remember who said what, but I

1 know that the next thing that I did was after looking
2 at the copy, I believe I looked at the original to
3 make sure that everything that was on the original
4 actually made it on to the copy, for example, that
5 you were going to receive.

6 And when I say "everything," what I mean
7 is, for example, on the front page, you can see that
8 there are certain numbers that are fairly blacked
9 out, and I wanted to be certain that since they were
10 dark, I believe, on the original, that they would be
11 sufficiently legible in the copy, that somebody
12 didn't have to write down what was under there before
13 the original was gone, that sort of thing.

14 So I checked quickly to make sure that the
15 copy matched the original, and then I asked the
16 paralegal to double-check that, in fact, they did
17 match.

18 Q You mentioned you asked someone if they had
19 compared one against the other. Do you recall who
20 that was?

21 A It would either have been the paralegal or
22 Mr. Kendall. It's really just something that we try

12

1 to do to make sure that once an original is gone,
2 people who are getting the copies have a copy that's
3 accurate.

4 Q Do you recall the paralegal's name?

5 A Yes, Mr. Rolfe, R-o-l-f-e.

6 Q His first name?

7 A Mark.

8 Q How were you able to distinguish which was
9 the copy and which was the original?

10 A The original had yellow Post-its on it that
11 were visible on the side. There may have been other
12 ways, but that was one immediate apparent way, and
13 the copies, as you may have noticed, had copies of
14 those Post-its, but don't have the full Post-It.

15 Q As you examined it, you were able to
16 confirm that every Post-It on the original had, in
17 fact, been copied on to the copy that was delivered
18 to the Senate?

19 A Actually, to the contrary. I discovered
20 they had not been and asked Mr. Rolfe to please go
21 back and recopy two pages that had Post-its on them
22 because the markings on the Post-Its had not made it

1 on to the copies -- I shouldn't say "on to the
2 copies" -- on to the copy that was there.

3 Q The final copy that was delivered to the
4 Senate contained copies of the Post-Its that
5 corresponded to the Post-Its on each page of the
6 original document?

7 A I believe that's right. I identified two
8 on the original and asked him please to recopy them.
9 And then because of that, I became concerned and
10 asked him please go back and double-check again, that
11 what the Senate and the RTC were getting was, in
12 fact, an accurate copy.

13 Q Did Mr. Rolfe check?

14 A I believe he did.

15 Q Do you recall what pages did not have the
16 Post-It on the copy?

17 A There was an asterisk and a question mark.

18 Q An asterisk and a question mark --

19 A On the Post-It.

20 Q Do you recall the page number?

21 A No, I don't.

22 MR. KRAVITZ: Off the record.

1 (Discussion off the record.)

2 THE WITNESS: The question mark is on page
3 Bates numbered DKSJ 029006, and the asterisk is on
4 DKSJ 028935.

5 BY MR. NAPPI:

6 Q When you saw these records on Mr. Kendall's
7 office sofa, just to clarify the record, was
8 Mr. Kendall in the room at this time?

9 A I don't remember exactly when he was there
10 and when he wasn't. He was there at some point that
11 morning when I was there, but I don't remember
12 specifically when.

13 Q Was this prior to production of these
14 records to the Independent Counsel?

15 A Yes. The original was going to be produced
16 to them.

17 Q At any point on January 5th did you have a
18 discussion about these records with Mr. Kendall?

19 A I'm sorry. What was the question?

20 Q On January 5th, did you have any
21 discussions with Mr. Kendall regarding the discovery
22 of these records?

1 A I think any conversations with Mr. Kendall
2 after the production of the records we would consider
3 to be privileged and wouldn't be answering here.
4 Before the production, my recollection that morning
5 is only of brief passing logistical discussions about
6 trying to get them out quickly and how was the
7 copying going, that sort of thing.

8 Q So the discussions were limited solely to
9 the mechanics of production to the Independent
10 Counsel, to Congress, to other investigatory
11 agencies?

12 A And copying and that sort of thing. I
13 don't recall anything more specific. It is
14 possible. I do not recall it.

15 Q Did Mr. Kendall discuss with you the
16 conversations he had on January 4th at the White
17 House regarding the discovery of these documents?

18 A I do not believe he did that morning.

19 Q Did he, prior to the production of these
20 records to the Independent Counsel?

21 A I don't believe so.

22 Q Did he discuss with you any conversations

1 he had regarding the integrity of fingerprints that
2 were on the original of the document?

3 A No, he didn't.

4 Q Prior to the production of the Independent
5 Counsel and Congress, did you have any discussions
6 with anyone else regarding these records?

7 A Apart from people at the law firm involved
8 in getting them out, like Mr. Rolfe, I don't believe
9 so.

10 Q Can you specify these people, other than
11 Mr. Rolfe?

12 A Oh, I think I had a conversation with
13 somebody in the copy room at some point about what
14 was taking time to copy. I don't remember who. I'm
15 sure I had a conversation with Mr. Kendall's
16 secretary about a messenger to get the documents to
17 the Independent Counsel. I'm talking serious
18 logistics discussions here, nothing substantive.

19 Q So on January 4th and January 5th you had
20 no discussions with anyone other than regarding the
21 mechanics of producing this record to the various
22 agencies that were interested in it?

1 A Prior to the time that they were produced
2 to the Independent Counsel --

3 MR. KRAVITZ: She's testified about
4 conversations -- one or more conversations with
5 Kendall on the 4th and I think a little bit beyond
6 your question.

7 MR. NAPPI: You're right.

8 BY MR. NAPPI:

9 Q Setting aside the camera conversations --

10 A And also the fact that Mrs. Huber had found
11 them in her East Wing office. And as I've said, it
12 is possible -- I do not remember them, but it is
13 possible that there were -- that I asked questions
14 about something, but I don't recall hearing any
15 answers.

16 Q Do you recall the questions you may have
17 asked?

18 A No.

19 Q Do you recall what Mr. Kendall told you
20 about Ms. Huber's discovery of these records?

21 A I recall that what I knew that morning was
22 that she found them in her East Wing office.

1 Q "That morning" being the 5th?

2 A The 5th, yes.

3 Q And that's the extent of what you recall?

4 A Yes.

5 Q Did you provide the original to the
6 Independent Counsel, the original version of this
7 record?

8 A We did, yes.

9 Q Do you know when President Clinton was
10 informed of the discovery of this record?

11 A Excuse me one second.

12 (Witness conferred with counsel.)

13 THE WITNESS: I believe I heard Jane
14 Sherburne testify about that. I have no other
15 knowledge.

16 BY MR. NAPPI:

17 Q Do you know when the First Lady was
18 informed of the discovery of these records?

19 A I believe I've heard Mr. Kendall testify
20 about that, and I think any discussions beyond that
21 would be privileged.

22 Q With respect to the discovery of the

1 records?

2 A Yes, with respect to my conversations with
3 Mr. Kendall about that, if any.

4 Q Let me try it this way. Do you know when
5 the First Lady was notified of the discovery of these
6 records?

7 A Again, I believe Mr. Kendall has testified
8 about that, and I don't believe I have any
9 independent knowledge of that.

10 Q So the first time you learned the
11 circumstances surrounding the First Lady's being
12 informed of the discovery of these records was
13 Mr. Kendall's testimony before the Senate?

14 A You know, I just don't remember when I
15 first learned of it. When I say I have no
16 independent knowledge, I mean I personally was not
17 involved in the communication to her or in any
18 communication to her about their discovery at the
19 time Mr. Kendall described it. And if you're asking
20 me if I talked with Mr. Kendall personally about his
21 notification of the First Lady, that would be
22 privileged.

20

1 Q Well, let's get away from the substance of
2 the conversation. Did Mr. Kendall inform you that
3 the First Lady had been notified of the discovery of
4 these records?

5 A That's what I said earlier. I just don't
6 remember when I knew that.

7 Q Was it prior to production of these records
8 to the Independent Counsel?

9 A I don't believe so. That I knew, you
10 mean?

11 Q That you knew that --

12 A That he had informed her, whether he had
13 informed her? I don't believe so, but as I've said,
14 I just don't remember when I first knew that.

15 Q Do you know of any other individuals who
16 saw these records, billing records, prior to their
17 production to the Independent Counsel?

18 A Other than who?

19 Q We'll set aside Ms. Huber, Ms. Sherburne,
20 Hank Schuelke, David Kendall, yourself, Mr. Rolfe,
21 any of the people who worked in the copying room at
22 Williams & Connolly?

1 MR. KRAVITZ: And Mr. Kendall's secretary.

2 MR. NAPPI: We'll even throw in

3 Mr. Kendall's secretary.

4 THE WITNESS: And myself, of course. I
5 can't think of anyone else.

6 BY MR. NAPPI:

7 Q In response to the various requests for
8 records from the numerous investigatory agencies that
9 have been involved in investigating the Rose Law
10 Firm's representation of Madison Guaranty, within
11 that context, have you ever been involved in a search
12 of the White House residence for responsive records?

13 A Yes, I have.

14 Q Do you recall the dates on which you were
15 actually at the White House residence searching for
16 records?

17 A I believe I was there in June 1994. I
18 believe I was there again -- roughly March 1995, and
19 there may have been other times, but I don't recall
20 any other times.

21 Q Prior to March '95?

22 A No, June '94 was prior to March '95.

22

1 Q But there may have been other times?

2 A Yes. I wouldn't want to rule it out, but I
3 don't remember any others.

4 Q The June '94 visit to the White House, did
5 the parameters of your document search include Rose
6 Law Firm billing records?

7 A The search included Madison Guaranty
8 records that would have included these billing
9 records. It did not encompass any and all Rose Law
10 Firm billing records.

11 Q So if these billing records had been
12 discovered, they would have been considered
13 responsive to your search in June of '94?

14 A Yes.

15 Q What areas of the White House residence did
16 you search during June of '94?

17 A A room that was known to me at the time as
18 Mrs. Huber's office, though I understand that it has
19 taken on a variety of different names.

20 Q Maybe this will be helpful.

21 MR. KRAVITZ: I doubt it.

22 MR. NAPPI: Neil, you're always so

1 negative.

2 MR. KRAVITZ: That thing always confuses
3 me.

4 BY MR. NAPPI:

5 Q Would it be this room here, room 323?

6 MR. KRAVITZ: Why don't you state for the
7 record what you've given her to look at.

8 MR. NAPPI: Thank you. For the record,
9 I've given the witness a floor plan for the third
10 floor of the White House residence.

11 MR. SUNDERMEYER: One question that I've
12 had about this map that has been bandied about, does
13 anybody know when this particular floor plan was
14 drawn?

15 MR. KRAVITZ: The answer is I don't know,
16 but I've heard people say that this diagram is
17 somewhat outdated. It's from several years ago, and
18 there has been some renovation since then.

19 MR. NAPPI: Clearly there have been
20 renovations since then. If it's not helpful, then --

21 THE WITNESS: It's generally in the
22 vicinity of 323, which was the room that I was in. I

24

1 think that's the room. Whether precisely that is the
2 same, I don't know.

3 BY MR. NAPPI:

4 Q Did you search for records in room 323?

5 A Yes.

6 Q Did you search the entire office, all the
7 file space?

8 A I was not alone there, but collectively we
9 did, yes -- all the file space, did you say?

10 Q Yes, all file space.

11 A Yes.

12 Q There was a closet in that room. Did you
13 search it?

14 A There was a closet in the room that had
15 some boxes in it. The boxes were on the floor for us
16 to search, and we searched the boxes. We tried to
17 search everything in that room. That was, I believe,
18 what we did.

19 Q Other than yourself, who was involved in
20 the search?

21 A A woman from the law firm named Silvija
22 Stroikis, and Mr. Kendall for a portion of it.

1 Q Was the June '94 search limited to records
2 contained in room 323?

3 A Are you asking whether we searched
4 elsewhere than room 323 in the residence?

5 Q Yes.

6 A No, we did not.

7 Q Did you coordinate your search with any
8 White House staff?

9 A I'm not sure what you mean by
10 "coordinate."

11 Q You searched room 323.

12 A Right.

13 Q It sounds like you searched it
14 exhaustively. Were records from other parts of the
15 White House residence brought into room 323?

16 A Yes. We had asked Mrs. Huber to identify
17 for us all potentially responsive personal financial
18 records or personal business records of the clients
19 and to make them available to us in 323. I don't
20 know for sure whether they were already there since
21 that was the room where Mrs. Huber was storing many
22 of them, or whether they were all there or whether

1 she brought some in, but that was the purpose of
2 putting everything in that room and searching that
3 which was then in that room.

4 Q So Ms. Huber was asked to bring all
5 responsive records to room 323?

6 A That was my understanding, yes.

7 Q And did you confirm that fact --

8 MR. KRAVITZ: Actually, Doug, I don't think
9 that's what Ms. Seligman's testimony was.

10 THE WITNESS: All potentially responsive
11 records.

12 MR. NAPPI: Thanks, Neil.

13 BY MR. NAPPI:

14 Q And did you confirm at that time that she
15 had, in fact, delivered all potentially responsive
16 records?

17 A In the course of your search there,
18 Mrs. Huber was present from time to time. And my
19 recollection in the course of those encounters with
20 her, I emphasized the need to her to review
21 everything that might be responsive. That came up in
22 a slightly different context of why we were insisting

1 on looking at every piece of paper in the room, but
2 it was clear that what we were doing was making sure
3 that we had gathered absolutely everything that might
4 be responsive that she was aware of and reviewing it
5 to see whether it should be produced.

6 Q Do you know an individual named Julie
7 Ferguson?

8 A Yes, I do.

9 Q Was she involved in this June '94 search?

10 A At the White House?

11 Q Yes.

12 A I don't believe so.

13 Q Was Mr. Rolfe involved?

14 A I don't believe so.

15 Q Do you know an individual named Denise
16 Sidlar?

17 A Yes, I do.

18 Q Was she involved in the June '94 search at
19 the White House?

20 A I don't believe so. Did you say search of
21 the White House? Let's call it search at the White
22 House.

1 Q Fair enough, search at the White House
2 residence. If we can move on to the March '95 search
3 at the White House residence, could you describe the
4 circumstances surrounding that search?

5 A Mrs. Huber was asked to make available to
6 us certain materials for review in response to a
7 request that we received, and we returned to that
8 same room to review certain files.

9 Q Can you identify the request that you had
10 received?

11 A It was a request from the Independent
12 Counsel.

13 Q And what were the parameters of the March
14 '95 search?

15 A We were searching for certain personal
16 financial records and certain other materials in
17 which the Independent Counsel was interested that
18 were not Madison billing records.

19 Q Can you identify the scope of the search
20 regarding these other materials?

21 A I'm not sure what you mean by "the scope of
22 the search."

1 Q The subject matter.

2 A I don't think we're going to get into the
3 specifics of grand jury requests here.

4 MR. KRAVITZ: And I actually think, Doug,
5 that there's been an agreement that we wouldn't ask
6 that specific question. I think you probably could
7 ask her whether the Rose Law Firm billing records
8 relating to Madison were covered by what they were
9 looking for. I certainly wouldn't object to that
10 question. I don't know whether the witness would,
11 but I wouldn't.

12 MR. SUNDERMEYER: We wouldn't either. In
13 fact, I think she just said that. That's what she
14 was trying to say in the previous answer.

15 THE WITNESS: I was trying to be helpful.

16 MR. KRAVITZ: She said it specifically with
17 regard to the other materials in which the
18 Independent Counsel was interested in.

19 MR. NAPPI: Without taking a position on
20 whether we've had an agreement as to the scope, why
21 don't we move forward in the interest of time.

22 BY MR. NAPPI:

30

1 Q The review of records in March of '95 took
2 place again in room 323?

3 A That's right.

4 Q Was Ms. Huber responsible for collecting
5 responsive or potentially responsive records?

6 A Yes, she was.

7 Q Did the March '95 search include records
8 that were in the book room on the third floor of the
9 residence?

10 A Do you mean had she obtained any records
11 from the book room for us?

12 Q Yes.

13 A I don't believe I know.

14 Q With respect to the June '94 review of
15 records, do you know if any of those records had been
16 taken from the book room?

17 A I don't, as I sit here today, and I just
18 don't remember whether I knew back then whether she
19 had collected them or whether they were already in
20 323.

21 Q At any time, have you been in the book
22 room --

- 1 A Yes, I have.
2 Q -- on the third floor residence?
3 Do you recall the date?
4 A I was in there in June of '94.
5 Q During the June '94 document review
6 process?
7 A Right.
8 Q What was your reason for entering the book
9 room at that time?
10 A There was a Xerox machine in there, and I
11 would have gone in there briefly to see that it was
12 set up, to check at the end of the day to make sure
13 that anything that had been in there being Xeroxed
14 was not left lying around, that sort of thing.
15 Q Did you notice any filing cabinets in the
16 book room?
17 A I don't remember filing cabinets in there
18 then. It's possible. I just don't remember.
19 Q Were you aware that certain of the
20 Clintons' personal records were stored in the book
21 room?
22 A Their personal records of what kind?
-

- 1 Q Financial records.
2 A Was I aware that they were stored in there
3 on the days that I was in there?
4 Q Yes.
5 A I would have been very surprised. I
6 believe they were in 323 when I was there.
7 Q Did you later learn that certain personal
8 financial records were stored in the book room?
9 A I'm not sure I've ever learned that there
10 were personal records -- financial records stored in
11 there. I certainly was aware that Mrs. Huber had
12 been responsible for moving records to the White
13 House from Little Rock, organizing them and that sort
14 of thing, and they certainly may have gone through
15 there and that would be consistent with my
16 understanding of that room. Whether I knew that they
17 were actually stored in there as a storage room, I'm
18 not sure I would have known that.
19 Q Other than June '94, have you ever been in
20 the book room?
21 A Yes.
22 Q Do you recall the date?

1 A Excuse me one second, please.
2 (Witness conferred with counsel.)
3 MR. NAPPI: Can you read the last question
4 and answer, please

5 (The reporter read the record as requested.)

6 THE WITNESS: By "book room," you're
7 referring to the room that's marked as 319A;
8 correct?

9 BY MR. NAPPI:

10 Q Yes.

11 A Because I don't know it as that or didn't
12 know it as that. I may have been back in there since
13 June '94. I don't remember being back in there, but
14 if I was up on the third floor, it's possible. I was
15 there this year since the discovery of the billing
16 records.

17 Q Was that subsequent to their production to
18 the Independent Counsel?

19 A Yes.

20 Q At any time when you were in 319A, where
21 the book room is commonly referred to, did you see
22 the billing records that Williams & Connolly produced

1 to the Senate on January 5th?

2 A Certainly not to my knowledge.

3 Q Do you think that if you had seen them, you
4 would have recognized them as potentially responsive
5 records to the searches that Williams & Connolly was
6 conducting?

7 A If I had looked at them or seen them to
8 know what they were, yes.

9 Q And other than June '94 and March of '95,
10 you don't recall other specific instances when you
11 were in the White House residence reviewing records?

12 A In response to document requests or
13 subpoenas?

14 Q Yes.

15 A No, I don't.

16 Q Were there instances when you were in the
17 White House residence searching the Clintons'
18 personal financial records not in response to a
19 specific request or subpoena?

20 A No.

21 Q On both these instances, the June '94
22 review, the March '95 review, did you rely

1 exclusively on Carolyn Huber to collect all
2 potentially responsive documents?

3 A Excuse me.

4 (Witness conferred with counsel.)

5 THE WITNESS: Can you read the question to
6 me again, please.

7 (The reporter read the record as requested.)

8 THE WITNESS: I take it that question
9 relates to potentially responsive documents that
10 might be stored in the second or third floors of the
11 residence.

12 BY MR. NAPPI:

13 Q Yes.

14 A Putting aside conversations with the
15 clients, which would be privileged, the only other
16 person with whom we might have touched base, and this
17 one is quite murky for me, is Millie Alston, who had
18 been, I believe, Mrs. Clinton's secretary at one time
19 at the Rose Law Firm and currently is working at the
20 White House, and I have a vague recollection of
21 touching base with her or of Mr. Kendall touching
22 base with her, but that might have been more for what

1 might have been stored at the Rose Law Firm than for
2 what would, in particular, be in the residence. I
3 just don't want to rule her out, but I don't have a
4 specific recollection of relying on her for searches
5 at the White House residence.

6 Mrs. Huber was the one who had packed up
7 the documents, who had maintained them for 10 years,
8 who had brought them up to Washington and who had
9 organized them in Washington, so she would have been
10 the one who would have known the universe of
11 documents.

12 Q Did your clients direct you as to
13 records -- potentially responsive records within the
14 White House residence?

15 MR. SUNDERMEYER: That's privileged.

16 BY MR. NAPPI:

17 Q Did your clients direct where you could
18 find potentially responsive records in the White
19 House residence?

20 MR. SUNDERMEYER: I think that's
21 privileged, too. The conversations -- if there were
22 conversations with the clients, they would be

1 privileged. Now -- hold on one moment.

2 (Witness conferred with counsel.)

3 THE WITNESS: It was my understanding that
4 Mrs. Huber knew the universe of personal business and
5 financial records in the Clintons' possession. And
6 it was my understanding that she was making available
7 to us all potentially responsive ones.

8 BY MR. NAPPI:

9 Q And that understanding was derived from --

10 A The conversations that we might have had
11 would be privileged. I'm trying to tell you where I
12 ended up without disclosing any privileged
13 conversations.

14 Q So the source of that conclusion may have
15 been, in part, new to privileged conversations?

16 A The question is, was the source of my
17 understanding, in part, privileged. I think the
18 answer would be yes.

19 Q Did Millie Alston provide you or any of the
20 other members or employees of Williams & Connolly
21 with an index of records that were located at the
22 Rose Law Firm?

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1 A I believe she did.

2 Q Do you recall when that was?

3 A Sometime in 1994, I believe. It was not to
4 me.

5 Q Do you know who received this index?

6 A Mr. Kendall.

7 Q Did you ever see the index?

8 A One second.

9 (Witness conferred with counsel.)

10 THE WITNESS: My hesitation is that there
11 may be more than one index, so that your question is
12 hard for me to answer. I have seen indexes of
13 materials from Rose, either in their full form or
14 redacted form, and I believe one or more of them came
15 from Millie Alston.

16 BY MR. NAPPI:

17 Q Did any of those indexes refer to the
18 billing records that Williams & Connolly produced on
19 January 5th?

20 A I don't believe so.

21 Q Did you ever participate in a search at the
22 Rose Law Firm for potentially responsive records to

1 any requests or subpoena?

2 A No.

3 Q Did you ever participate in a search for
4 potentially responsive records to any requests or
5 subpoena excluding the two searches you've already
6 testified to at the White House residence?

7 A Not that I remember.

8 Q Other than the White House residence, have
9 you ever visited any other location to review
10 potentially responsive records?

11 A Yes.

12 Q Could you tell us what those sites are?

13 A At some time in connection with the same
14 matters we're talking about in March of '95, I was in
15 the East Wing looking -- I think talking with
16 Mrs. Huber about potentially responsive documents.
17 Apart from that, I have reviewed documents at
18 Williams & Connolly, and I have reviewed documents in
19 Little Rock.

20 Q And this discussion in the East Wing with
21 Mrs. Huber took place contemporaneous with the search
22 of the White House residence?

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1 A It was in connection with the request from
2 the Independent Counsel that we were discussing
3 earlier.

4 Q Was anyone else a party to this
5 conversation between you and Ms. Huber?

6 A Silvija Stroikis may have been.

7 Q Do you recall what you discussed with
8 Ms. Huber at that time?

9 A It would have had to have been the
10 existence or whereabouts of documents responsive to
11 the requests from the Independent Counsel, but I
12 really don't remember the conversation. I just
13 remember being in her office.

14 Q Was it prior to your review of records in
15 room 323 of the residence?

16 A In 1995? Probably, but I really don't
17 remember.

18 Q I'd like to show you an August 25, 1995
19 letter addressed to David Kendall of your firm from
20 Senator D'Amato requesting certain records. Have you
21 seen this letter?

22 A Yes, I have.

1 Q Were you involved in a review of records
2 responsive to this letter?

3 A I believe it was responsive to this
4 letter. I don't remember what the first production
5 date was, and it may be that it was responsive to
6 this letter in conjunction with a later letter, but
7 essentially, yes.

8 Q Was it your firm's position that Rose Law
9 Firm billing records would have been included within
10 the parameters of the requests made by this letter?

11 A I don't think we had a position on that at
12 the time that documents were produced in response to
13 this letter in the fall of 1995.

14 Q Do you have a position now?

15 A You're asking me for my legal opinion on
16 whether the Rose Law Firm billing records are
17 responsive to this letter request?

18 Q Or the follow-up subpoena, which was
19 essentially --

20 MR. SUNDERMEYER: I think it was the same,
21 weren't they? They just put the subpoena on top of
22 the list.

1 THE WITNESS: I think technically they
2 probably fall outside the request, but I don't
3 consider it to be an issue. They were given to you,
4 and I don't think there was any debate about whether
5 to produce them to you.

6 BY MR. NAPPI:

7 Q Could you describe the scope of the search
8 that was undertaken for records responsive to the
9 Senate's request and subsequent subpoena?

10 A Well, let me answer collectively the group
11 of them. Many of the materials called for in these
12 requests had already been gathered by us, and we
13 reviewed those materials to find that which would be
14 responsive to the Senate's requests. I believe
15 Mr. Kendall took certain steps to make sure that
16 there were no new materials that had come to people's
17 attention.

18 And to the extent that the request either
19 to the clients or to Mr. Kendall or Mr. Tisdale,
20 although I think it was really Mr. Tisdale in his
21 role as a custodian, exceeded what we believed we had
22 looked for before, we made efforts to identify

1 documents elsewhere that might have been responsive
2 and to produce those as well.

3 Q Was an independent search of the White
4 House residence made for responsive records?

5 A No.

6 Q Can you specify the steps that were taken
7 to verify whether additional responsive records
8 existed?

9 A I believe Mr. Kendall touched base with
10 Mrs. Huber about the Senate requests.

11 Q What about Mr. Tisdale?

12 A What about him?

13 Q As I recall, a coordinated production was
14 made between your firm and Mr. Tisdale's firm?

15 A Correct.

16 Q Did Williams & Connolly undertake a search
17 of the Clinton campaign records?

18 A Do you have with you the letters that were
19 received by the Committee from Mr. Kendall and
20 Mr. Tisdale? They probably speak for themselves on
21 who did what.

22 Q Yes. Here is Mr. Tisdale's letter. Here's

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1 the Williams & Connolly letter.

2 A To the extent that we had not already
3 reviewed campaign materials for responsive documents,
4 I don't recall whether it was Mr. Tisdale or we who
5 would have gone back to look again to the extent
6 there was anything that might have been in there
7 beyond that which had already been culled from there.

8 Q So there was a prior search by Williams &
9 Connolly of campaign records?

10 A Yes.

11 Q Do you recall the date of that search?

12 A Summer of 1994 and the spring of 1995, at
13 least.

14 Q And these took place in Little Rock?

15 A Yes.

16 Q And the searches would have encompassed
17 records relating to the Rose Law Firm's
18 representation of Madison Guaranty?

19 A It would have encompassed Madison Guaranty.

20 Q Would it have encompassed the billing
21 records that Williams & Connolly produced to the
22 Senate on January 5th?

1 A If they had been identified or found there,
2 they would have been covered by our search, yes.

3 Q I'd like to ask you a question about a
4 series of individuals relating to -- they're third
5 parties, not your client and your communications with
6 them, regarding the Rose Law Firm's representation of
7 Madison Guaranty.

8 Did you ever discuss the Rose Law Firm's
9 representation of Madison Guaranty with Susan
10 Thomases.

11 MR. SUNDERMEYER: That's privileged.

12 MR. NAPPI: Is it your position that any
13 third party communications regarding the Rose Law
14 Firm's representation of Madison Guaranty would be
15 privileged?

16 MR. SUNDERMEYER: If it's not in an attempt
17 to search for documents in response to the subpoena
18 or the document requests and the subpoenas, right.

19 MR. NAPPI: Why don't we pursue it this
20 way.

21 BY MR. NAPPI:

22 Q I'll ask you about a series of individuals

1 and whether you contacted them regarding your search
2 for documents that could be potentially responsive to
3 requests made by Congress, by the Independent Counsel
4 and any other investigatory agency.

5 A Okay.

6 Q Did you ever have such contacts with Susan
7 Thomases?

8 A No.

9 Q Did you ever have such contacts with Web
10 Hubbell?

11 A No.

12 Q With William Kennedy?

13 A No.

14 Q With Rick Massey?

15 A No.

16 Q With Ronald Clark?

17 A No.

18 Q With Sue Cathey-Jones?

19 A No.

20 Q With any current or former member or
21 employee of the Rose Law Firm?

22 A Other than my client, I assume? Not to my

1 knowledge, and I say it that way because I obviously
2 don't know everybody who was a former employee, but
3 not anybody who I would have been speaking to in that
4 capacity, in any event.

5 Q Did you ever have such conversations with
6 Loretta Lynch?

7 A No.

8 Q Alston Jennings, Sr.?

9 A No.

10 Q Seth Ward?

11 A No.

12 Q James Blair?

13 A No.

14 Q James Hamilton?

15 A No.

16 Q Are you aware that the RTC Inspector
17 General issued a report on the Rose Law Firm's
18 representation of Madison Guaranty in August of 1995?

19 A I suspect that my awareness of that is
20 privileged or lack thereof is privileged.

21 Q Do you recall when you first became aware
22 of the RTC Inspector General's report?

1 MR. SUNDERMEYER: That would be
2 privileged.

3 MR. NAPPI: On what grounds would that be
4 privileged?

5 MR. SUNDERMEYER: Work product.

6 BY MR. NAPPI:

7 Q Were you aware prior to the report's
8 issuance that it would be issued?

9 MR. SUNDERMEYER: If she were, it would be
10 work product.

11 BY MR. NAPPI:

12 Q Did you ever undertake a search for
13 documents that would allow a response to the RTC
14 Inspector General's report to be prepared?

15 A I take it that that's a question about a
16 search that I would have done for representational
17 purposes unrelated to a document request from any
18 investigative entity; is that right?

19 Q Yes, any requests to help formulate a
20 response to the issuance of this report.

21 A I think that would be privileged. I know
22 it would be privileged. That's privileged.

1 Q Response to any press inquiries, did you
2 ever undertake a search for responsive records?

3 A To press inquiries about the RTC IG
4 report?

5 Q Yes.

6 A That's privileged also.

7 Q Responses to press inquiries?

8 A What I do in the course of any
9 representation of a client and the information that I
10 seek to gather in order to formulate advice is
11 privileged.

12 MR. NAPPI: Let's go off the record for a
13 minute.

14 (Discussion off the record.)

15 BY MR. NAPPI:

16 Q With respect to the work product privilege
17 that you've asserted to my last line of questioning,
18 what is the litigation that you foresee in
19 preparation?

20 MR. SUNDERMEYER: Consistent with where we
21 were this morning, we're not going to deal with that
22 under oath here. She's not going to be talking about

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1 her mental impressions about litigation or
2 nonlitigation. That's privileged.

3 MR. NAPPI: Fair enough.

4 BY MR. NAPPI:

5 Q If we could return for a second to the
6 search for responsive records in Little Rock in the
7 summer of '94 and the spring of '95, were any
8 searches conducted of records outside of the custody
9 of Mr. Tisdale?

10 A I don't believe so.

11 Q Was Web Hubbell contacted for responsive
12 records from the Clinton campaign?

13 A Not by me.

14 Q Was he contacted by anyone at your firm?

15 A Mr. Kendall had received documents from him
16 previously.

17 Q Prior to the summer of '94?

18 A That's right. And I don't believe he
19 contacted him again in the summer of 1994, but I
20 don't know for sure.

21 Q Are you aware if anyone at your firm
22 contacted Mr. Hubbell subsequent to Mr. Hubbell

1 providing certain records he had in his personal
2 custody for other responsive records?

3 A Let me answer you this way because I do not
4 have full knowledge of this. I believe there came a
5 time where we believed that anything potentially
6 responsive that Mr. Hubbell had we had received or he
7 had otherwise produced to somebody.

8 Q Was this prior to the summer of 1994 when
9 you went to Little Rock?

10 A I believe so.

11 Q Are you certain, or is that your best
12 belief?

13 A I think I started out saying that I was far
14 from certain.

15 Q What's your basis for that belief?

16 A That Mr. Kendall had collected documents
17 from Mr. Hubbell.

18 Q Did Mr. Kendall collect all potentially
19 responsive records from Mr. Hubbell?

20 A I can't answer these questions because I
21 don't know at what stage you're talking about, and
22 therefore, potentially responsive to what, and I

1 don't know at what stage Mr. Hubbell received a
2 request from an investigative entity, at which time
3 he would have produced documents so they wouldn't
4 have been available for anyone else to produce. Not
5 only am I not certain, I'm also confused.

6 Q Mr. Hubbell made certain campaign records
7 available to your firm prior to the summer of 1994.

8 A I'm aware he made certain records
9 available. I'm not sure what you would call campaign
10 records, so let's leave it as records.

11 Q Certain records?

12 A Correct.

13 Q Did anyone at your firm ever undertake a
14 review of all the records Mr. Hubbell had in his
15 possession?

16 A At what time?

17 Q At any time subsequent to his provision of
18 those records to Williams & Connolly.

19 A Again, it's my understanding that he
20 provided Mr. Kendall with documents that might have
21 reasonably been perceived as belonging to our clients
22 as opposed to Mr. Hubbell. We certainly never asked

1 for or, to my knowledge, received his personal
2 records. And I'm not sure what more I can say to
3 you.

4 Are you asking whether Mr. Kendall ever
5 received an assurance from Mr. Hubbell that there
6 were no more documents that might belong to the
7 clients?

8 Q Yes.

9 A That I don't know the answer to.

10 Q The production that Mr. Hubbell made to
11 Williams & Connolly, is this the only receipt of
12 records from Mr. Hubbell that Williams & Connolly has
13 had?

14 A I believe Mr. Kendall testified about this,
15 and I just have no independent knowledge of this at
16 all.

17 Q I'd like to show you a record that's been
18 Bates stamped S 020552. It is a Waves entry and exit
19 record from the White House.

20 A Excuse me one second.

21 (Witness conferred with counsel.)

22 MR. NAPPI: And I'll simultaneously direct

1 the witness's attention to a record Bates stamped S
2 02001 which is an usher log from the White House
3 Usher's office.

4 BY MR. NAPPI:

5 Q With respect to the Waves record, it
6 indicates that at or about 3:15 on July 20th of 1995,
7 you were checked into the White House compound by
8 Jane Sherburne. Do you recall the purpose of this
9 visit?

10 A This is July 20, 1995, did you say?

11 Q Yes. Yes, well, the first entry is.

12 A I have a belief but not a certainty.

13 Q What is that belief?

14 A I think that's privileged.

15 Q Is it based on a review of the document of
16 the usher log?

17 A The combination, yes.

18 Q During your July 20th visit to the White
19 House, were you ever in the book room on the third
20 floor of the residence?

21 A Not that I recall.

22 Q Do you recall seeing the billing records

1 that were produced by Williams & Connolly?
2 A No, I don't.
3 Q I'll direct your attention back to the
4 Waves record, Bates stamped 552.
5 A Yes.
6 Q That record indicates that you were checked
7 into the White House again by Ms. Sherburne at 10:45
8 on July 21st. Do you recall the purpose of that
9 visit?
10 A Can I ask you a question about reading
11 these things, so I know what I'm looking at?
12 Q Sure.
13 A There's a date, a time and a second time.
14 Is one the clearance time and the other the arrival
15 time?
16 MR. KRAVITZ: Right. He's actually been
17 misspeaking a little bit. For example, on the July
18 21, 1995 entry, 10:45 is the time that you were
19 cleared to enter the White House. And I think 10:51,
20 which is over toward the right, is the time that you
21 actually checked in. That's under TOA, time of
22 arrival.

1 THE WITNESS: I see. Okay. Okay, I see
2 the 21st.
3 BY MR. NAPPI:
4 Q And maybe this will be helpful.
5 MR. KRAVITZ: Just while we're being
6 compulsive here, you've said a few times that
7 Sherburne checked her in. I think what that means is
8 that someone on Sherburne's behalf or possibly
9 Ms. Sherburne herself called Ms. Seligman in to put
10 her on the list. I don't think this actually means
11 that Ms. Sherburne was there when she actually
12 entered the White House.
13 MR. DINH: We're unclear as to what it
14 means; correct?
15 MR. NAPPI: Right.
16 MR. SUNDERMEYER: It doesn't necessarily
17 mean that.
18 THE WITNESS: It doesn't necessarily mean I
19 saw Ms. Sherburne that day.
20 MR. DINH: We have no representation either
21 way from the White House as to the exact procedure.
22 So as long as we're being compulsive about this, we

1 have not had a representation either way from the
2 White House or an explanation as to the difference
3 between the checking in and the TOA or the person who
4 called, the person who actually was at the gate in
5 order to meet that particular visitor.

6 THE WITNESS: Right.

7 BY MR. NAPPI:

8 Q I'll direct your attention to another White
9 House usher log that's Bates stamped S 020002. It's
10 an usher log for Friday, July 21st. Reading these
11 two records in conjunction, do you recall the purpose
12 of your visit to the White House on the 21st?

13 A Again, I have a belief as to what it was,
14 but I would not want to say it was a certainty.

15 Q To the best of your belief, could you
16 describe --

17 A That would be privileged also.

18 Q On either of these dates, on the 20th or
19 the 21st, did you meet with Jane Sherburne prior to
20 entering the White House residence?

21 A I just don't remember.

22 Q With respect to any entry or exit into the

1 White House residence between July 20th and August
2 15th, would it be your position that any of these
3 entries and exits would be privileged information?

4 MR. KRAVITZ: You mean the purpose of
5 them?

6 MR. NAPPI: The purpose of them.

7 THE WITNESS: Well, I think I'd like to
8 answer that as concretely as possible, and I only see
9 visits through the 22nd here. And what is that, the
10 28th?

11 BY MR. NAPPI:

12 Q The 28th.

13 A I have no recollection of anything going up
14 to August 15.

15 Q Well, here's a -- I asked you that because
16 that's the time period that we have been focusing
17 on. Why don't we move on to the July 22nd visit.
18 This is a White House usher log for Saturday, July
19 22nd. It's Bates stamped S 020003. Reading this in
20 conjunction with the Waves record, do you recall the
21 purpose of your visit to the White House that day?

22 A This one is getting a lot closer to a

1 certainty. Yes, I do.

2 Q Would the purpose of that visit to the
3 White House residence been --

4 MR. SUNDERMEYER: Let me do it. For the
5 record, S 020003 also contains on it at 12:02 that
6 Special Prosecutor Mr. Starr and five colleagues went
7 to the second floor, which was the same floor
8 Mr. Kendall and one guest went to.

9 BY MR. NAPPI:

10 Q Was that the sole purpose of your visit to
11 the White House on July 22nd?

12 A To the best of my recollection, yes.

13 Q On either July 21st or July 22nd, did you
14 enter the book room on the third floor of the White
15 House residence?

16 A Not that I recall.

17 Q On either July 21st or July 22nd, did you
18 see the billing records that Williams & Connolly
19 produced to the Senate on January 5th?

20 A No, not to my knowledge.

21 Q I direct your attention to the last entry
22 on the Waves record, and that is an entry on July

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1 28th, I believe. Do you recall the purpose for your
2 visit to the White House on that day?

3 A I deduce from the log that it may have been
4 to visit to meet with Judge Mikva, but I have no
5 recollection of the meeting.

6 Q Do you recall being on the third floor of
7 the White House residence --

8 A No.

9 Q -- that day?

10 A No.

11 Q Do you recall seeing the billing records
12 that Williams & Connolly produced on January 5th that
13 day?

14 A No.

15 Q I'd like to direct your attention to a
16 record that's been Bates stamped DKS 028346.

17 Let's go off the record for a moment.

18 (Discussion off the record.)

19 BY MR. NAPPI:

20 Q Can you identify this record?

21 A I can identify it as a document produced by
22 Williams & Connolly.

1 Q Have you ever personally reviewed this
2 record?

3 A Yes, I have.

4 Q Can you identify the handwriting on the
5 record?

6 MR. SUNDERMEYER: That's privileged.

7 BY MR. NAPPI:

8 Q Do you know who the author of this record
9 is?

10 MR. SUNDERMEYER: That's privileged.

11 MR. NAPPI: Work product privilege?

12 MR. SUNDERMEYER: Yes. In other words, her
13 knowledge about a document in a case is classic work
14 product, sure.

15 BY MR. NAPPI:

16 Q Do you know the particular source of this
17 document?

18 A No, I don't. We produced thousands.

19 Q Do you know the prior custodian of this
20 document?

21 A I just don't.

22 Q Again, let's return for one moment to the

1 Waves record indicating your entries and exits into
2 the White House in July of 1995. To summarize, is it
3 your testimony that all of your entries and exits
4 that are summarized on this record were for the sole
5 purpose of representing your client and would be
6 within the work product privilege, the subject matter
7 of those meetings?

8 A Depending on the question, the work product
9 privilege and/or potentially the attorney-client
10 privilege, yes.

11 Q Can you specify with respect to each entry
12 and exit which privilege you would be asserting?

13 A I think it would depend on the question.

14 Q Regarding the subject matter of
15 conversations or contacts that took place during each
16 of these meetings?

17 A The last one, I think, is easy because I
18 told you I don't recall it.

19 MR. SUNDERMEYER: Well, let's cut through
20 this. It's all work product and to the extent there
21 was any communication with the client, it's also
22 attorney-client, but we're not going to tell you even

1 if we could figure it out when we're talking to the
2 client and when we're not because that's work
3 product.

4 MR. NAPPI: Work product squared.

5 MR. SUNDERMEYER: There you go.

6 BY MR. NAPPI:

7 Q You've testified as to reviews of records
8 in the White House residence, in Little Rock on two
9 instances and at Williams & Connolly. Are there any
10 other locations where you reviewed records responsive
11 to the various requests that your clients have
12 received from investigatory agencies or Congress?

13 A I think I said at least twice with respect
14 to Little Rock, just to be absolutely clear. And
15 your -- the White House residence, did you also
16 include the East Wing visit that I mentioned?

17 Q We'll include that if it was
18 contemporaneous.

19 A I personally do not recall searching any
20 place else.

21 Q The review of records that took place at
22 Williams & Connolly, who were the original custodians

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1 of the records that you had reviewed or that you did
2 review at Williams & Connolly?

3 A My "original custodians," do you mean by
4 whom we had obtained them?

5 Q Yes.

6 A I would purport to not necessarily be
7 complete about this, but from Mr. Hubbell, from
8 Betsey Wright. I'm pausing because I know
9 Mr. Kendall obtained records from certain people who
10 had had them during the campaign, and I'm just not
11 certain whether it was Mr. Lyons or who actually had
12 them at the end and provided them to us. So my
13 testimony on that would be almost guessing.

14 Q Was it Susan Thomases?

15 A I don't believe so, no.

16 Q Was it Maggie Williams?

17 A No.

18 Q Was it Jim Blair?

19 A I don't think so.

20 Q Diane Blair?

21 A Not that I know of.

22 Q How did Williams & Connolly come into

1 possession of records that were in the custody of
2 Betsey Wright?

3 MR. SUNDERMEYER: That may be privileged.
4 I'd just identify the issue for the witness.

5 (Witness conferred with counsel.)

6 MR. NAPPI: Could you repeat the question,
7 please.

8 (The reporter read the record as requested.)

9 MR. SUNDERMEYER: That's privileged.

10 MR. NAPPI: Just to make the record clear,
11 work product privilege?

12 MR. SUNDERMEYER: Yes, work product.

13 BY MR. NAPPI:

14 Q Did Williams & Connolly ever request
15 records from Ms. Wright regarding the Rose Law Firm's
16 representation of Madison Guaranty in response to a
17 document request?

18 A I did not.

19 Q Do you know if anyone else at the firm did?

20 A I don't know.

21 Q I'd like to direct your attention to a
22 series of documents Bates stamped S 020532 through S

1 020542. They are -- they purport to be drafts of a
2 statement by David Kendall dated January 5th. Have
3 you seen any of these records before?

4 A Do you represent that these are all
5 different, or should I stop and take a look at each
6 of them or --

7 Q Well, they're different in one material
8 respect, which is what I'm going to get into. Did
9 you see any of the drafts of Mr. Kendall's statement
10 on January 5th?

11 MR. SUNDERMEYER: That's privileged.

12 BY MR. NAPPI:

13 Q Were you involved in the preparation of any
14 of these drafts?

15 A I believe that's privileged.

16 MR. SUNDERMEYER: That's privileged, right.

17 BY MR. NAPPI:

18 Q I direct your attention to the final
19 document Bates stamped 541. Did you review these
20 drafts?

21 MR. SUNDERMEYER: That's privileged, if she
22 did.

1 MR. NAPPI: They've been produced.

2 MR. SUNDERMEYER: The problem here is,
3 there may be lots of documents that you have. What
4 she has done with them is Williams & Connolly's work
5 product.

6 BY MR. NAPPI:

7 Q Did you have any discussions with anyone
8 outside of Williams & Connolly regarding the
9 preparation of these statements or these records?

10 MR. SUNDERMEYER: If she did, that would be
11 privileged.

12 MR. NAPPI: Work product privilege?

13 MR. SUNDERMEYER: At least and if --

14 MR. NAPPI: The White House has produced
15 these so they would have waived their attorney-client
16 privilege.

17 MR. SUNDERMEYER: No. Your question just
18 now is, did she have any discussions about these with
19 anybody. Her discussions, if they occurred, would be
20 work product. If the discussions involved the
21 client, they would be attorney-client privilege. But
22 we're not in a position to indicate to you what it is

1 we're talking to the client about because that is
2 work product. That's the panoply of privileges that
3 apply to the last question.

4 BY MR. NAPPI:

5 Q If I could direct your attention to 541, it
6 omits language that is contained in the other three
7 statements. They're contained in the second
8 paragraph of the other three statements and the
9 language and question is "the records demonstrate
10 that Mrs. Clinton did no work on the 1985 purchase
11 of" blank and in brackets insert "other positive news
12 from contents of the records."

13 A I see that.

14 Q What is your understanding as to why that
15 language was omitted from the record Bates stamped
16 541?

17 MR. SUNDERMEYER: If she has any
18 understanding, it would be privileged.

19 BY MR. NAPPI:

20 Q Did you have any discussions regarding the
21 omission of that language from 541?

22 MR. SUNDERMEYER: That would be privileged

1 as well.

2 BY MR. NAPPI:

3 Q If I could redirect your attention to the
4 billing records that Williams & Connolly produced to
5 the Senate on January 5th, were these among the
6 records in Vincent Foster's office at the time of his
7 death?

8 (Witness conferred with counsel.)

9 THE WITNESS: I don't know.

10 BY MR. NAPPI:

11 Q You don't know is your response to the last
12 question posed?

13 A Yes.

14 MR. KRAVITZ: What was the question? I
15 thought the question was whether she had any
16 conversations --

17 THE WITNESS: I think it was were they in
18 there; right?

19 MR. SUNDERMEYER: You better read back the
20 last question.

21 (The reporter read the record as requested.)

22 BY MR. NAPPI:

70

1 Q And your response is I don't know. Okay.
2 You've testified as to two searches of the White
3 House residence, one in '94 and one in '95.

4 A At the White House residence.

5 Q At the White House residence. I
6 apologize. What were the duration of those searches?

7 A In June 1994, I think it was roughly five
8 to six days over two weeks, maybe four to six days.
9 In March '95, it was quite a bit shorter. A day. At
10 most, two.

11 Q With respect to the searches that
12 Williams & Connolly undertook in Little Rock, they
13 were limited to records in the custody of
14 Mr. Tisdale?

15 A I think when you asked me that question,
16 you asked my searches. I believe Mr. Kendall also
17 searched at the Rose Law Firm.

18 Q But you were not --

19 A But I did not. So to the extent that was
20 unclear, I want to make it clear. I believe that's
21 right. What I'm referring to is Mr. Kendall's
22 letter, October 23 letter to you where he sets out

1 what documents Mr. Tisdale was the custodian for, and
2 I believe that's correct.

3 MR. SUNDERMEYER: So the record is clear,
4 you're using the letter as the benchmark?

5 THE WITNESS: You're asking me whether it
6 was only the documents that he was the custodian
7 for?

8 BY MR. NAPPI:

9 Q Yes.

10 A And I'm just looking at the letter to
11 define that category, which defines it as the 1992
12 presidential campaign, the 1990 gubernatorial
13 campaign, the President's personal gubernatorial
14 records, and actually, I believe he also is the
15 custodian for the transition documents. And I
16 believe that's the universe of what I searched in
17 Little Rock.

18 Q Are you aware of any other searches --
19 other than the searches that you've previously
20 testified to today, are you aware of any other
21 searches undertaken by any member or employee of
22 Williams & Connolly for records responsive to any

1 requests or subpoenas issued by either house of
2 Congress or any investigatory agency?

3 (Witness conferred with counsel.)

4 THE WITNESS: I think I've described
5 everything to you. One of the reasons that I'm
6 hesitant is because I was not involved in the very
7 beginning so that I can't purport to tell you
8 everything that was done in those first months
9 because I just don't know.

10 BY MR. NAPPI:

11 Q When did you become involved in the
12 representation of the Clintons?

13 A In the spring of 1994. And then I was
14 gone, involved in something else for a while, and
15 then I came back late spring '94.

16 Q Prior to producing the billing records to
17 the Independent Counsel on January 5th, who did you
18 discuss their discovery with?

19 MR. SUNDERMEYER: Other than people she's
20 already --

21 MR. NAPPI: Other than people she's already
22 testified.

1 THE WITNESS: I don't believe I had any
2 conversations with anyone outside the firm prior to
3 their production.

4 BY MR. NAPPI:

5 Q At any time during your participation in
6 the representation of the Clintons, did you ever make
7 any specific inquiry with respect to the billing
8 records that were produced on January 5th to anyone?

9 MR. SUNDERMEYER: And the time frame of the
10 question?

11 MR. NAPPI: During her representation or
12 her involvement in Williams & Connolly's
13 representation.

14 MR. SUNDERMEYER: Up until the time the
15 documents were produced?

16 MR. NAPPI: Yes.

17 THE WITNESS: I have to separate that out
18 into searching for them or conversations in
19 connection with a particular search in response to a
20 request from the Senate or an investigative entity,
21 and I do not recall having any such conversations
22 because the search would have been in the context of

1 Madison and not in the context of these particular
2 billing records.

3 Any conversation that I might have had with
4 somebody for informational purposes, apart from any
5 search that we were doing, would be privileged.

6 BY MR. NAPPI:

7 Q Did you ever undertake, during any time
8 when you were involved in the representation of the
9 Clintons, a search for records relating to Castle
10 Grande or IDC?

11 A Again, we searched for documents related to
12 Madison and documents related to Castle Grande or
13 Madison's IDC involvement would have been encompassed
14 by that.

15 Q No specific search or inquiry for records
16 relating to the Rose Law Firm's representation of
17 Madison with respect to the IDC transaction?

18 A That I searched for? You know, it's very
19 hard to do that without looking at the requests. I
20 don't remember looking in that way in response to a
21 particular request that I was involved in. I recall
22 searching for Madison documents.

1 Q Are you aware of anyone at Williams &
2 Connolly searching for records pertaining
3 specifically to the IDC transaction or Castle Grande?

4 A Apart from a general search for Madison
5 documents?

6 Q Yes.

7 A I just don't know.

8 Q Were you a party to the contact where the
9 OIC was informed of the existence or discovery of
10 these billing records?

11 A No.

12 MR. NAPPI: I have no further questions.


13 MR. KRAVITZ: I have no questions.

14 (Whereupon, at 5:29 p.m., the deposition
15 was concluded.)

16 -----
17
18 NICOLE K. SELIGMAN
19
20
21
22

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 30, 1997

DEPONENT Nicole SeligmanERRATA

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE FROM</u>	<u>CHANGE TO</u>	<u>REASON</u>
5	8	"what"	"a"	tr. error
6	9-10	The lines are garbled and incorrect. The term "that" should be inserted before the term "are" in line 9. In line 10, the "." should be a "?"		
		Reason: tr. error.		
6	20	."	--"	tr. error
9	5	"you"	"he"	tr. error
11	11	"in"	"on"	tr. error
12	12	"immediate"	"immediately"	tr. error
24	22	"Stroikis"	"Strikis"	spelling
26	17	"your"	"our"	tr. error
26	19	insert "is that" before "in"		tr. error
27	16	"Sidlar"	"Zdelar"	spelling
40	6	"Stroikis"	"Strikis"	spelling
42	10	insert "about" before "the"		tr. error
64	3	"Mv"	"By"	tr. error
64	6	"purport to not necessarily" should be changed to "not necessarily purport to"		grammar

END

**DEPOSITION OF MELANNE VERVEER
IN RE: S. RES. 120**

MONDAY, FEBRUARY 19, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MELANNE VERVEER, called for examination pursuant to notice of deposition, at 2:01 p.m. in Room 534 of the Dirksen Senate Office Building, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.
Majority Associate Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

THEODORE CASE WHITEHOUSE, Esq.
Wilkie, Farr & Gallagher
Three Lafayette Center
1155 Twenty-First Street, N.W.
Washington, DC 20036-3384
On behalf of the Deponent.

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EXHIBITS

DEPOSITION NUMBER	IDENTIFIED
Verveer Exhibit 1	55, 3946

P R O C E E D I N G S

Whereupon,

MELANNE VERVEER

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. DINH:

Q Ms. Verveer, as you know, my name is Viet Dinh with the Majority Staff of the Senate Committee to investigate the Whitewater Development Corporation and related matters.

This deposition is conducted pursuant to Senate Resolution 120. The resolution enables the special committee to be administered by the Senate Banking Committee to conduct an investigation into Whitewater Development Corporation, Madison Guaranty Savings and Loan Association and other related matters.

Section 1(A)(1) of Resolution 120 authorizes investigation and public hearing into, and study of, whether improper conduct occurred regarding the way in which White House officials handled

4

documents in the White House Deputy Counsel Vincent Foster following his death.

Section 1(B)(3)(A) authorizes an investigation and public hearings into, quote, the operations, solvency and regulation of Madison Guaranty Savings and Loan Association and any subsidiary, affiliate or other entity owned or controlled by Madison Guaranty Savings and Loan Association.

Section 1(B)(C) of Resolution 120 authorizes an investigation and public hearings into the policies and practices of the RTC and the Federal Banking agencies regarding the legal representation of such agencies with respect to Madison Guaranty Savings and Loan Association.

And section 1(B)(3)(E) of Resolution 120 authorizes an investigation and public hearings into the sources of funding and the lending practices of Capital Management Services, Incorporated, and its supervision and regulation by the Small Business Administration, including any alleged diversion of funds through Whitewater Development Corporation.

1 Mrs. Verveer, these subjects will be the
2 areas of deposition. This deposition is being taken
3 under oath, and the stenographer will prepare a
4 transcript.

5 The public hearing, which is being
6 conducted right now by the Senate Whitewater
7 Committee, we have not decided who will be called
8 upon as witnesses at such hearings, but we will
9 notify you in such advance if you are called as such
10 a witness.

11 The transcript of this deposition will be
12 treated as committee confidential until the
13 commencement of any public hearing when you are
14 called to testify, it may be made whole or, in part,
15 public.

16 Prior to the hearing, you will receive a
17 letter from the committee telling you that you may
18 come to review the transcript of your deposition and
19 make note of any corrections to the transcript on an
20 Errata sheet.

21 If you are called to testify at a public
22 hearing, you will be provided a copy of deposition

1 transcript four days in advance of such hearings.
2 Both these provisions of the transcript are for the
3 limited purpose of reviewing and preparation. And
4 they are not to be disclosed for any other purposes.

5 You may be represented by counsel, if
6 Mr. Whitehouse will make an appearance for the
7 record.

8 MR. WHITEHOUSE: Yes. I'm Theodore
9 Whitehouse, counsel for the witness, Law Firm of
10 Willkie, Farr & Gallagher.

11 BY MR. DINH:

12 Q Pursuant to the procedures set forth in
13 Procedure 120, objections to the form of the
14 questions will be noted for the record.

15 There are two grounds upon which counsel
16 may instruct you not to answer a question, that is,
17 the two grounds are privilege and scope. Scope being
18 the question goes beyond the matters authorized by
19 Senate Resolution 120.

20 The committee chairman ultimately will rule
21 on any objections if the witness refuses to answer a
22 question.

1 Mrs. Verveer, can you state your full name
2 for the record, please?

3 A My name is Melanne Verveer.

4 Do you want me to spell that?
5
6
7

8 Q From the notice of your deposition here,
9 have you had any conversations with anyone other than
10 your counsel and your immediate family members about
11 the subject matters that you've been asked to
12 testify?

13 A Just in the most general ways before I
14 received the document on scope, I had asked some of
15 my colleagues what the -- what the nature of the
16 scope of the inquiry was.

17 Q And who are these colleagues?

18 A To the best I recall, I may have asked
19 Capricia Marshall and Betsy Soleis who had just been
20 through the same process.

21 Q Without telling me what you said or what
22 you were asked, can you tell me whether you've been

1 interviewed by any other investigative agency or
2 personnel regarding the subject matters that you've
3 been called to testify here?

4 A Yes, I had an interview at the Independent
5 Counsel's Office.

6 Q And when was this?

7 A I don't remember specifically.

8 Q Was it in the last two weeks?

9 A No.

10 Q Okay.

11 A It was about a year ago, I think.

12 Q About a year.

13 MR. WHITEHOUSE: It was approximately
14 September of 1994.

15 BY MR. DINH:

16 Q Can you give me a brief background of your
17 education and your professional history?

18 A I have a graduate degree in Russian
19 studies, a Master's Degree. My undergraduate studies
20 were also in the same area. I had since that time
21 either worked in public interest organizations or on
22 Capitol Hill.

- 1 Q Okay. And where did you get your
2 undergraduate degree?
3 A At Georgetown.
4 Q And your graduate degree also?
5 A Georgetown.
6 Q What is your current position at the White
7 House?
8 A I'm deputy assistant to the President and
9 Deputy Chief of Staff to the First Lady.
10 Q And since when have you held this position?
11 A Since the beginning of the administration.
12 Q Since January of 1993?
13 A Um-hum.
14 Q Did you work on the 1992 campaign for the
15 Clinton/Gore Campaign?
16 A I worked on the fall campaign.
17 Q On the fall campaign. And what was your
18 position in that campaign?
19 A I was a member of the First Lady's staff.
20 I worked out of the DNC office.
21 Q Here in Washington?
22 A Yes.

10

- 1 Q Were you ever stationed in Little Rock?
2 A I was not.
3 Q Did you have occasion to travel to Little
4 Rock during the campaign?
5 A Very infrequently.
6 MR. WHITEHOUSE: It was infrequently,
7 correct?
8 BY MR. DINH:
9 Q What were your duties as a member of the
10 First Lady's staff at the DNC?
11 A I worked on issues that may have come up as
12 part of the campaign, particularly in answering
13 questions from the staff. I did some research on
14 Mrs. Clinton's positions on the rights of children,
15 for example.
16 Q So it's mostly a policy-oriented position?
17 A Yes.
18 Q Did your position at the -- during the
19 campaign involve any record handling for the First
20 Lady?
21 A No, sir, not that I recall.
22 Q And when you said you traveled to Little

1 Rock infrequently, on what occasions did you have to
2 travel to Little Rock?

3 A Well, I once went on the bus tour, the
4 limited bus tour through parts of Georgia. I went
5 down election night. It was not for really any
6 specific work-related reason.

7 Q Okay. Now, during these times when you
8 went down to Little Rock, were you asked to handle
9 any records or file any records or anything?

10 A I was not.

11 Q Let me move now to your position since
12 January of 1993.

13 What are your duties there as Deputy Chief
14 of Staff to the First Lady?

15 A I work on all the issues in which the First
16 Lady is involved, mostly matters of public policy.

17 Q And the chief of staff is Margaret
18 Williams?

19 A Yes.

20 Q Is that the person you report directly to?

21 A Organizationally, I report to her,
22 practically, I, more often than not, report to the

1 First Lady.

2 Q Okay. You said you deal primarily with
3 policy issues. Do you also have any staffing
4 functions and supervisory functions over the First
5 Lady's staff?

6 A As the Deputy Chief of Staff, I would
7 certainly be expected to supervise staff on those
8 occasions when Ms. Williams were not doing it,
9 particularly in the areas that I would be most
10 involved, for example, on a trip where I might be
11 traveling with the First Lady and be the senior most
12 staff person.

13 Q And do you travel with the First Lady on
14 trips very often?

15 A Yes.

16 Q Where's your office in the White House?

17 A My office is in Room 101 of the Old
18 Executive Office Building.

19 Q Do you have a space in the White House
20 residence in which you do work also or is that just
21 your sole office?

22 A That's my sole office.

1 Q Okay. What is your office extension, phone
2 extension?

3 A My personal extension is 62538, but most of
4 my calls go to the regular office number.

5 Q Which is?

6 A 66266.

7 Q And that number is the general number for
8 the First Lady's office?

9 A That's correct.

10 Q In your capacity as Deputy Chief of Staff
11 to the First Lady, do you have any functions dealing
12 with guests of the White House residence?

13 A By "guests," you mean people that stay of
14 overnight?

15 Q Exactly, or make arrangements for anybody
16 to visit the First Lady in the White House
17 residence.

18 A No.

19 Q Do you have occasion to go to the White
20 House residence as an incidence to your position as
21 chief of staff -- of Deputy Chief of Staff to the
22 First Lady?

1 A Yes.

2 Q On what occasions would you normally go to
3 the White House residence?

4 A Usually for meetings with the First Lady.

5 Q Do you have regular meetings scheduled with
6 the First Lady, or do they -- are they scheduled on
7 an as-needed basis?

8 A On as as-needed basis.

9 Q And I take it they're consistent with your
10 self-described job description that these meetings
11 would be regarding policy issues on which the First
12 Lady was involved in?

13 A That's right.

14 Q Is Whitewater Development Corporation
15 considered a policy issue?

16 A It is not.

17 Q By policy, you mean health care?

18 A Health care issues, immunization, Gulf War
19 disease, Beijing Women's Conference.

20 Q Okay. Do you know who John Spotila is?

21 A I do.

22 Q I take it you knew each other from

- 1 Georgetown?
- 2 A That's correct.
- 3 Q Was that the first time you met
- 4 Mr. Spotila?
- 5 A It was.
- 6 Q Have you continued your
- 7 relationship -- your friendship with Mr. Spotila
- 8 since Georgetown?
- 9 A Yes.
- 10 Q Did you recommend him for a job in
- 11 administration?
- 12 A He wasn't recommended by me solely. He was
- 13 someone well-known to the president, but I helped
- 14 facilitate getting his paperwork in.
- 15 Q And I take it Mr. Spotila knew the First
- 16 Lady and the President from Yale Law School; is that
- 17 correct?
- 18 A I think he knows them both from Yale Law
- 19 School, but he may also know the President from
- 20 Georgetown, which I'm confident he does.
- 21 Q Which would be consistent also. Is that
- 22 when you first met the President at Georgetown?
-

16

- 1 A Yes.
- 2 Q Okay. And did you continue your friendship
- 3 with the President since Georgetown?
- 4 A Yes.
- 5 Q And with the First Lady also I take it?
- 6 A I didn't know the First Lady at Georgetown.
- 7 Q I mean like when did you -- when did you
- 8 first meet the First Lady?
- 9 A I can't remember precisely when I first met
- 10 her, I think it was sometime in the late '70s or
- 11 early '80s.
- 12 Q But you kept up your friendship since then?
- 13 A Yes.
- 14 Q Is this the first time by the way that
- 15 you've worked for the President and the First Lady;
- 16 that is, starting at the campaign and in the current
- 17 administration?
- 18 A Yes.
- 19 Q Okay. So none of the other public interest
- 20 jobs that you were mentioning were for the First Lady
- 21 or the President --
- 22 A Correct.

1 Q -- at the time Governor and Mrs. Clinton?
2 But Mr. Spotila was in contact with you during the
3 process of his consideration for a job in the
4 administration?

5 A Yes.

6 Q Did he express a particular interest in any
7 particular jobs, or was it more a general desire to
8 serve the administration?

9 A I think it was the latter. I can't recall
10 precisely.

11 Q In any event, he was subsequently appointed
12 as general counsel to the Small Business
13 Administration; correct?

14 A Correct.

15 Q Do you know who made that decision?

16 A Ultimately the President made the decision.

17 Q Okay. Do you know who suggested that
18 position to Mr. Spotila, or did he suggest the
19 position to the administration?

20 A I don't know exactly, but it's possible
21 that when he was in the process of discussions with
22 the personnel office that they raised that position,

18

1 but I don't know for a fact.

2 Q Okay. Did you talk to anybody in the
3 personnel office regarding this -- Mr. Spotila's
4 employment?

5 A I don't recall that I did.

6 Q But you did talk to the President and First
7 Lady regarding his desire to serve in the
8 administration?

9 A I may have mentioned to them that he was
10 interested, I cannot recall.

11 Q Do you recall with specificity anybody whom
12 you may have mentioned his desire to serve in the
13 administration directly?

14 A No.

15 Q And did you and Mr. Spotila keep in contact
16 after he moved to Washington to take his position as
17 general counsel of the SBA?

18 A Extremely rarely, only socially.

19 Q How often would you see him socially?

20 A Maybe once a year or once -- twice a year.

21 Q Now, he came in the middle of 1993;
22 correct?

1 A I don't remember.
2 Q Okay. Did he talk to you over the
3 telephone during -- when he first came to town?
4 A He may have called about housing
5 arrangements; he has a young family.
6 Q Did he talk to you about his work at the
7 SBA after he joined the administration?
8 A No.
9 Q Did he talk to you about any criminal
10 investigations that he may have been in contact
11 with --
12 A Not that I recall.
13 Q Did he talk to you about any criminal
14 matters that may have -- that may relate or that may
15 touch upon the Clintons in Arkansas?
16 A No, not that I recall.
17 Q Okay. But if he had told you something,
18 you would recall it; correct?
19 A I would think so.
20 Q It's a rather important matter. Did you
21 ever talk to him about any criminal matters that he
22 may have been -- that the SBA may have been involved

20

1 in?
2 A No.
3 Q No. Did you talk to him about matters
4 going on at the SBA in general, not just criminal
5 matters, but just more generally matters at the SBA?
6 A The only conversation I recall was one in
7 the last few months where he told me about some of
8 the wonderful things the SBA was doing with respect
9 to reinventing government and the accelerated rate at
10 which credit was being approved and that kind of
11 thing.
12 Q In the last few months, you mean in the
13 last few months to the present?
14 A Yes --
15 Q Sometime in 1995?
16 A -- not that long ago.
17 Q Sometime in 1995?
18 A Yes.
19 Q Do you recall any similar conversations say
20 in 1993 or 1994?
21 A No, I don't.
22 Q Okay.

1 A He may have said, you know, I like my work
2 or something like that, but not substantive
3 conversations.

4 Q Did he ever show you or send to you any
5 documents from the SBA?

6 A Absolutely not.

7 Q Did anybody at the White House ask you to
8 talk to Mr. Spotila or anybody you know at the SBA?

9 A Absolutely not.

10 Q And I take it that the -- actually, did you
11 talk to anybody at the White House regarding any
12 contacts you may have had with Mr. Spotila at the
13 SBA?

14 A Did I talk to anybody at the White House
15 about contacts I had with him?

16 Q Yes, like if -- let's say this meeting that
17 you had or this conversation you had in 1995 relating
18 to --

19 A It was at a brunch, and I may have said to
20 somebody when I came back, gee, I've heard wonderful
21 things about what's going on at SBA, but I don't
22 recall precisely.

22

1 Q Did you have any such statements or
2 conversations say in 1993 or 1994?

3 A Not that I recall.

4 Q Did you have any conversations with
5 Mr. Spotila regarding David Hale --

6 A No, sir.

7 Q -- in the summer of 1993?

8 A No.

9 Q Ever?

10 A Not that I recall.

11 Q Okay. How about in the summer of 1993, any
12 conversations with Mr. Spotila regarding Capital
13 Management Services?

14 A No, I never heard of Capital Management
15 Services.

16 Q So I take it that -- your answer to my next
17 question would be no, you never talked to Mr. Spotila
18 regarding Capital Management Services at any time?

19 A That's correct.

20 Q Did Mr. -- and I know you've answered this
21 question more generally, I just want to focus your
22 attention on the more specific.

1 Did Mr. Spotila ever mention to you
2 sometime in the summer of 1993 that he was expecting
3 a criminal indictment of David Hale coming from an
4 investigation by the SBA?

5 A Not that I recall.

6 Q Besides Mr. Spotila and I guess now
7 Mr. Erskine Bowles, did you know anybody else who
8 worked at the SBA in 1993 or 1993?

9 MR. WHITEHOUSE: Objection. Go ahead. I
0 don't know who Erskine Bowles is. We didn't have any
1 discussion about Erskine Bowles. I at least am
2 confused about that; I don't know if the witness is
3 or not.

4 THE WITNESS: I'm happy to answer it.

5 MR. WHITEHOUSE: If you can, go right
6 ahead.

7 THE WITNESS: I knew Betsy Meyers, I think
8 she was there at that time, she headed up the women's
9 lending.

10 BY MR. DINH:

11 Q Do you remember what her exact title was?

12 A I don't.

24

1 Q Okay. Did you have any conversations with
2 Ms. Meyers regarding Capital Management Services?

3 A No, I did not.

4 MR. IVEY: Could we clear up this Bowles
5 reference?

6 MR. DINH: Sure.

7 BY MR. DINH:

8 Q You know who Mr. Bowles is; correct?

9 A I do.

10 Q And in 1993 he was the administrator of
11 SBA; correct?

12 A That's correct.

13 Q Did you know him when he was the
14 administrator of the SBA?

15 A Not in any policy capacity, just socially,
16 I was introduced to him.

17 Q Okay. Did you know him before he became
18 the administrator of SBA?

19 A I did not.

20 Q Okay. You've since have now known him
21 as -- he has since left the SBA; correct?

22 A He left the SBA. And I remember once on a

1 trip to Los Angeles after the earthquake being
2 involved in an event in which the First Lady
3 participated in which there was a transference of
4 federal assistance to this business that had been
5 destroyed by the earthquake. I think that was the
6 first time I met Ernston Bowles.

7 Q And the earthquake was when, do you
8 recall? I should know, I'm from California, but...
9 It's quite all right. Thank you.

10 MR. WHITEHOUSE: There have been so many.

11 BY MR. DINH:

12 Q This is the big earthquake, the Whittier
13 earthquake.

14 A The big earthquake.

15 Q The big earthquake, yes.

16 MR. WHITEHOUSE: I think of all of them as
17 big.

18 BY MR. DINH:

19 Q And you've since known Mr. Ernston Bowles
20 when -- since he left the SBA to come to the White
21 House?

22 A That's correct.

1 Q Okay. And did you have any conversations
2 with Ms. Meyers regarding David Hale?

3 A No, sir.

4 Q Okay. Did you have any conversations with
5 Mr. Ernston Bowles while he was administrator of the
6 SBA about Capital Management Services?

7 A No, sir.

8 Q How about David Hale --

9 A No.

10 Q -- about any criminal matters that the
11 SBA was working on that may impinge on the Clintons?

12 A No.

13 Q Have you had any subsequent conversations
14 with him after he left the SBA --

15 A No.

16 Q -- okay -- regarding those subject
17 matters? Do you know who Betsy Wright is?

18 A Betsy Wright, yes.

19 Q In what capacity do you know Ms. Wright?

20 A Well, I knew of her during the campaign as
21 a former, I think she was the chief staff person to
22 Governor Clinton, and she was involved in the

1 campaign. I may have met her for the first time
2 during the campaign, I don't recall.

3 Q Okay. Did your work for the campaign put
4 you in contact with Ms. Betsy Wright?

5 A I don't think so; I don't remember any such
6 occasion.

7 Q Okay. But -- so when was the occasion that
8 you thought you may have met Ms. Wright during the
9 campaign?

0 A I remember once meeting her during the
1 convention; I may have spoken to her prior to that,
2 but I don't recall.

3 Q Okay. But you did not deal directly with
4 her --

5 A I did not.

6 Q -- with respect to the campaign issues?

7 A No.

8 Q Did you have any conversations with
9 Ms. Wright during the campaign regarding Whitewater
0 Development Corporation?

1 A I did not.

2 Q Madison Guaranty?

1 A I did not.

2 Q Capital Management Services?

3 A I did not.

4 Q After the campaign when you joined the
5 administration, did you keep up your contacts with
6 Ms. Wright -- have you kept up your contacts with
7 Ms. Wright?

8 A Well, I don't know if the accurate way to
9 describe it is keeping up with contacts --

0 Q Okay.

1 A -- since she wasn't someone I knew very
2 well. She had on occasion called me very
3 infrequently and, as I recall, it was related to
4 health care reform at the time. I think she was
5 representing dieticians, and she may have been
6 representing someone else.

7 Q These contacts were related to the policy
8 issues around health care?

9 A That's correct.

0 Q And do you recall approximately when she
1 contacted you with respect to these -- the health
2 care initiative?

1 A Well, it would have to be sometime during
2 the time that health care reform was much debated,
3 and I can recall an occasion when I met with some
4 representatives, I think it was the dieticians who
5 had some position on health care reform.

6 Q And Ms. Wright --

7 A She was in that meeting.

8 Q Would this approximately have been in the
9 middle of 1993 if you can recall?

10 A Approximately; well, while the health care
11 was going on.

12 Q You're closer to the health issue than I
13 am. And did she have -- and did she call you to set
14 up these meetings?

15 A Yes, she did.

16 Q Did you have any independent reasons to
17 contact Ms. Wright other than her representation of
18 the dieticians?

19 A Not that I recall, but she may have been
20 representing some clients beyond the dieticians. I
21 can remember a few conversations that had to do with
22 health care in the context of health care, and that's

30

1 all I remember.

2 Q They all had to do with health care issues,
3 however?

4 A Yes, it was a time when everybody who had
5 an interest was calling to put their position down.

6 Q All right. Let me show you now a record
7 that has been produced to us, and let me represent to
8 you that they reflect the pages from Ms. Wright's
9 message pads.

10 And the record I'm specifically showing you
11 right now is Bates stamp S00760 -- actually, it's
12 from -- from your message pad, I apologize. And it
13 reflects a phone call to you from Betsy Wright dated
14 7/28/1993; time 9:23 a.m.

15 Do you recall getting this message?

16 A I don't recall precisely.

17 Q Okay.

18 A She did call me on those occasions I
19 mentioned.

20 Q Would this have been consistent with her
21 calls at the time regarding health care?

22 A Yes.

1 Q Let me show you a message from the earlier
2 day on page S007754, again the same source and
3 representation to you from Ms. Betsy Wright dated
4 7/27 at 12:40. And this one, however, has been
5 marked that it was returned your call.

6 A Well, it's conceivable she called me, I
7 called her back, she wasn't in, she returned my call,
8 and we were in Washington tag. But I don't know
9 precisely. But it is conceivable that this was about
10 setting up the meeting that I mentioned, and first
11 she called to ask about it, and then she wanted to
12 say that such-and-such date made sense. But, again,
13 I don't remember with any precision.

14 Q Right. So you have no independent
15 recollection of these calls other than what's
16 reflected in --

17 A Right.

18 Q -- in the message pad?

19 A But I can only tell you what I discussed
20 with her.

21 Q Let me focus your time frame and, you know,
22 just to try to get a little bit more specificity to

1 try to see if I can jog your memory a little bit
2 more.

3 This was approximately a week after the
4 death of Vincent Foster, if you can recall the dates,
5 it would be Vincent -- Mr. Foster passed away on the
6 20th of July 1993; that's an event that sticks out in
7 all our minds.

8 Do you recall this contact with dieticians
9 occurring within a week of Mr. Foster's death?

10 A I don't recall when those conversations
11 occurred.

12 Q Did you talk with Ms. Wright regarding
13 Mr. Foster's death at all?

14 A Not that I recall.

15 Q And I ask the question with respect to the
16 campaign, the time period during the campaign.

17 Have you ever had conversations with
18 Ms. Betsy Wright regarding Whitewater Development
19 Corporation?

20 A No.

21 Q Regarding Madison Guaranty?

22 A No.

1 Q The Rose law firm?
2 A No.
3 Q And Capital Management Services or David
4 Hale?
5 A No.
6 Q Do you know who Webster Hubbell is?
7 A Yes.
8 Q When did you first meet Mr. Hubbell?
9 A I don't remember precisely when I first met
10 him, but it would have been sometime in the early
11 days of the administration.
12 Q After he had been associate attorney
13 general?
14 A Well, he had a role, as I recall, vis-a-vis
15 the Justice Department, and in those early days, I
16 don't think he was -- I don't remember if he was
17 named or certainly not confirmed, because we didn't
18 have an attorney general at that point.
19 Q Right. So you first met him when he had
20 the informal role at the Justice Department before
21 his confirmation as associate attorney general?
22 A I would think so.

1 Q This would probably be approximately in the
2 January of 1993 --
3 A It may have been January. It may have been
4 February. I don't remember precisely.
5 Q And were you involved in your role as
6 Deputy Chief of Staff to the First Lady with any
7 issues involving Mr. Hubbell, did your work take you
8 that way?
9 A Yes.
10 Q Can you explain to me generally on what
11 occasions did you have to contact Mr. Hubbell?
12 A The one I recall has to do with legal
13 services. He --
14 Q This is with respect to the Legal Services
15 Corporation?
16 A As a policy, yes.
17 Q Okay.
18 A He ultimately, and I don't remember when,
19 testified for the Justice Department in support of
20 the administration's position on the Legal Services
21 Corporation, and I can't recall when my conversations
22 with him began on that issue.

1 Q Okay. And to whom did he testify?

2 A To the House or the Senate. I think it was
3 the House.

4 Q And this is one of the policies that you
5 were working on for the First Lady?

6 A I was working on that policy more widely
7 than for the First Lady, because I'm also Deputy
8 Assistant to the President. Some issues I work on
9 for the whole White House; some issues I work on just
10 for her office.

11 Q Okay. So is your role as Deputy Assistant
12 to the President similar to your role as Deputy Chief
13 of Staff to the First Lady; that is, they deal mainly
14 with policy issues?

15 A Yes.

16 Q Were there any other occasions or issues
17 that you were working on with Mr. Hubbell?

18 A Not that I can recall.

19 Q And these contacts you had with Mr. Hubbell
20 regarding the Legal Services Corporation, do you
21 recall approximately when they were in relation to
22 his testimony to the House or Senate?

36

1 A It would have been prior to that, but I
2 don't remember with precision exactly when these
3 events occurred.

4 Q Within a month, a couple of weeks?

5 A It would have been certainly after he was
6 confirmed, I would think.

7 Q Okay. Do you recall approximately what
8 year this issue came up as a public issue?

9 A It probably was discussed in '93, I don't
10 remember if he testified in '93, I think perhaps he
11 did.

12 Q But your contacts with him dealt with his
13 preparation, the preparation for him in his testimony
14 to the House or Senate regarding this issue?

15 A Yeah, and whether or not they would
16 testify, who would testify, preparation meetings.

17 Q Did they deal exclusively with the Legal
18 Services Corporation?

19 A Yes.

20 Q Okay. Did you talk to Mr. Hubbell
21 regarding Whitewater Development Corporation?

22 A I did not.

1 Q Madison Guaranty Savings and Loan?

2 A I did not.

3 Q The Rose law firm?

4 A I did not.

5 Q Capital Management Services or David Hale?

6 A I did not.

7 Q Let me show you now another page from your
8 appointment -- actually your message logs, and this
9 one is labeled SOO7755. It's for the week following
10 the earlier messages that I had shown you.

11 This is dated August 2nd, 1993. The time
12 is 11:02 a.m., and it reflects a call to you from
13 Mr. Hubbell. And this indicates that he returned a
14 call to you.

15 A I don't know precisely what this refers
16 to. It's also conceivable it may have had something
17 to do with health care reform because medical
18 malpractice and antitrust issues were legal issues,
19 especially antitrust, in which there was some
20 departmental activity, that's the only other thing I
21 can think of.

22 Q Was he your point person at the Department

1 of Justice with respect to these legal issues?

2 A With health care reform, I think I mostly
3 dealt with -- with Ann Bigamen.

4 Q So she was the assistant attorney general?

5 A But it's conceivable he was involved, I
6 don't recall.

7 Q Did you talk to Mr. Hubbell at all
8 regarding the death of Mr. Vincent Foster?

9 A Oh, I may have commiserated with him, you
10 know.

11 Q Did you talk to him about the handling of
12 any files in Mr. Foster's office?

13 A I did not.

14 Q Okay. And he did not express any views to
15 you on that subject?

16 A He did not.

17 Q During these -- I know you said you may
18 have done it, and you don't recall specifically
19 whether you did or not.

20 But during these conversations with
21 Mr. Hubbell, do you recall specifically any
22 speculation as to why Mr. Foster would have taken his

1 own life that Mr. Hubbell offered to you?

2 A I don't recall any, but it was a time of
3 such shock for people who knew Vince Foster that it
4 would not have been out of the ordinary to say
5 something like, you know, was he depressed or did you
6 know he was depressed. But I have no precise
7 recollection of that conversation or that kind of
8 conversation.

9 Q Did you work with Mr. Foster while he was
0 at the White House?

1 A I did.

2 Q How often would you see him?

3 A Maybe once a week.

4 Q On what issues?

5 A I worked with him on judicial selection, on
6 medical malpractice in the context of health care
7 reform, and on legal services, the corporation.

8 Q Did he ever discuss with you Whitewater
9 Development Corporation?

0 A He did not.

1 Q Did he discuss with you any subject
2 relating to the Rose law firm?

40

1 A No.

2 Q Did he talk to you about the cases that he
3 and Mrs. Clinton handled together at the Rose law
4 firm?

5 A No.

6 Q Did you have any conversations with him
7 regarding Madison Guaranty Savings and Loan
8 Association?

9 A No.

10 Q Capital Management Services and David Hale?

11 A No.

12 MR. IVEY: He used the same checklist over
13 and over again.

14 BY MR. DINH:

15 Q And I know you mentioned that Whitewater
16 Development Corporation is not the -- considered to
17 be a quote, unquote, policy issue in your -- in the
18 definition of your portfolio as to your duties
19 as -- for the President or for the First Lady.

20 But let me ask you more specifically
21 whether you had any conversations with the First Lady
22 regarding Whitewater Development Corporation?

1 A I've only talked to her generally about
2 Whitewater sort of in the context of the allegations
3 being misplaced, the fact that there was no
4 wrongdoing, but not in terms of any specifics.

5 Q And did the First Lady in turn give you any
6 specifics regarding these allegations or matters
7 regarding Whitewater Development Corporation?

8 A No, she hasn't.

9 Q Did she discuss her work with relation to
10 Madison Guaranty Savings and Loan Association?

11 A No.

12 Q And did you have any conversations with her
13 with respect to Capital Management Services or David
14 Hale?

15 A No.

16 Q Do you talk to the President on a regular
17 basis?

18 A I talk to him.

19 Q And did you talk to him about Whitewater
20 Development Corporation at any time?

21 A No, only, again, in the context of, you
22 know, the wrongness of all of these allegations

1 and --

2 Q Were these specific meetings on Whitewater
3 that you expressed these concerns to him or the First
4 Lady?

5 A No.

6 Q They were made in passing?

7 A Yes.

8 Q And I take it, and correct me if I'm wrong
9 with respect to my recollection of your prior
10 testimony, but this seems to be the first time that
11 you had any conversation regarding Whitewater
12 Development Corporation in the context of your work,
13 these comments made in passing? Can you recall other
14 conversations?

15 A I can't recall any. And, again, this is in
16 the context of sort of the daily news being
17 Whitewater.

18 Q So you have no --

19 A It wasn't with respect to any kind of
20 specific discussions apropos of Whitewater.

21 Q So with respect to your information on
22 Whitewater, it is based only on the news reports and

1 what is generally reported in the media?

2 A That's correct.

3 Q Okay. So you have no other basis of
4 information as to the propriety on appropriateness
5 of the specific allegations with respect to the
6 Whitewater investigation?

7 A Right.

8 Q Okay. Let me turn your attention now to
9 the period of July 20th through August 15th, 1995;
10 that is the -- this last summer -- actually before I
11 do so.

12 You mentioned that you -- you mentioned
13 that you frequently travel with the First Lady on
14 trips.

15 Did you travel with her to the G-7 Summit
16 in Hawaii or actually in Seoul, Korea in 1993?

17 A No, I didn't.

18 Q That just saved us about 20 minutes. And
19 so you were not with the First Lady in Little Rock
20 when the -- when she heard the news of Vince Foster's
21 death?

22 A That's correct.

1 Q Then let me now direct your attention to
2 the period of July 20th through August 15th, 1995,
3 that is, this last summer, and this is -- this is an
4 approximately three-week period prior to her leaving
5 for Wyoming on vacation, just to direct your
6 attention to that specific time in the First Lady's
7 schedule.

8 You've testified earlier that the -- your
9 general -- in your general course of duty, you would
10 sometimes come into the White House residence to have
11 meetings with the First Lady; correct?

12 A That's right.

13 Q Can you recall any other reason why you
14 would have gone into the White House residence during
15 this period of July 20th through August 15th, 1995?

16 A Not into the residence, no.

17 Q And by "the residence," I mean the second
18 and third floor of the residence.

19 A Second and third.

20 Q So any entries -- any entries you made into
21 the White House residence would be in the normal
22 course of your duties in order to meet with the First

- 1 Lady?
- 2 A That's right.
- 3 Q And these are policy-oriented meetings?
- 4 A Well, for example, a scheduling meeting has
5 a policy component to it, so it depends how you
6 define it.
- 7 Q Do you usually attend the scheduling
8 meetings?
- 9 A Yes.
- 10 Q The daily meetings?
- 11 A No, not the daily meetings.
- 12 Q The weekly scheduling meetings?
- 13 A They're -- they don't always occur
14 weekly --
- 15 Q But --
- 16 A -- when they occur.
- 17 Q As regularly as possible, the weekly
18 scheduling meetings?
- 19 A Right.
- 20 Q When they can be scheduled, I guess? And
21 who else would be in attendance at this weekly
22 scheduling meeting?

- 1 A The First Lady, Maggie Williams, Lisa
2 Caputo, Capricia Marshall and Patty Soleis.
- 3 Q And yourself?
- 4 A And myself. And on occasion, if one of
5 those isn't there for some reason, somebody else
6 might come.
- 7 Q Okay. That's a substitute for --
- 8 A Right.
- 9 Q -- their particular functions?
- 10 A Correct.
- 11 Q So somebody, say, Mr. Lattimore may take
12 Ms. Caputo's place?
- 13 A Exactly.
- 14 Q But apart from these weekly scheduling
15 meetings, did you have other meetings with
16 Mrs. Clinton regarding your areas that you may have
17 been working on?
- 18 A Yes.
- 19 Q And sometimes these would take place in the
20 White House residence?
- 21 A Yes.
- 22 Q I'll ask you more specifically. Where in

1 the White House residence would these take place?

2 A Usually in the living area of the second
3 floor, the west -- the west part of that or in the
4 family dining room, but that's usually just a
5 scheduling meeting.

6 Q Family dining room in the second floor?

7 A Yes.

8 Q Okay.

9 A And later when she was working on the book,
10 on the third floor, I met with her a couple of times
11 there.

12 Q There in her office that she was using in
13 order to work on the book?

14 A It wasn't really a office; it was a room
15 with a computer in it that she used while she was
16 writing a book.

17 Q Do you remember the room number that was on
18 the third floor?

19 A No, I never knew those rooms by room
20 number.

21 Q I will direct your attention more
22 focused --

1 A And I had meetings with her in the solarium
2 from time to time.

3 Q On the third floor?

4 A On the third floor.

5 Q Do you recall whether any of these meetings
6 with Mrs. Clinton while she was working on the book;
7 that is, when she was working in her -- the room that
8 she was using as an office on the third floor, do you
9 recall if any of these took place in July and August
10 of 1993 -- 1995?

11 A I don't think so.

12 Q Okay. I'll ask for your specific
13 recollections in specific with the White House
14 residences a little bit later on, but I just want to
15 get a more general feel as to your recollection.

16 Do you recall when these meetings with
17 Mrs. Clinton in her -- in the office she was using
18 for her book was generally?

19 A They would have occurred in the fall.

20 Q Before or after her Wyoming trip?

21 A Oh, after her Wyoming trip. I was away the
22 first two weeks in August, I came back for a day and

1 a half I think, so I didn't see her very much during
2 that time.

3 Q When did you come back from vacation?

4 A I would have come back the Monday of that
5 third week.

6 Q Okay. So right before she left for her
7 vacation?

8 A When she left for Wyoming.

9 Q Did you go with her to China?

10 A Yes.

11 Q Okay. Did you meet with Mrs. Clinton in
12 preparation for her trip to China?

13 A Many times.

14 Q And did these take place in the rooms she
15 was using at the time to work on her book?

16 A No, because she -- we had a meeting before
17 she left for Wyoming, and then I didn't meet with her
18 again until Hawaii, and then we went off to China.

19 Q So the meetings you had in preparation of
20 China took place in Hawaii?

21 A Right, except for the meeting before we
22 left.

1 Q I want to be on record that I have first
2 dibs on any depositions we have to take in Hawaii, so
3 if you have any leads to give us on anything in
4 Hawaii, please.

5 MR. WHITEHOUSE: I'm sure hearings ought to
6 be conducted there.

7 BY MR. DINH:

8 Q Let me direct your attention, now, to
9 what -- to an exhibit that is labeled S020002, and
10 they reflect the White House Usher's Office record
11 for specific days.

12 Did you know that the White House Usher's
13 Office kept logs with respect to entries and exits to
14 the White House residence?

15 A I think I sort of knew.

16 Q Well, let me represent to you that
17 the -- that these are the logs that have been
18 produced to us as those that are kept by the White
19 House Usher's Office.

20 Let me direct your attention to about a
21 quarter of the way down the page to the entry at
22 12:40.

1 MR. IVEY: What's the date on this?

2 BY MR. DINH:

3 Q The day was Friday, July 21st, that's
4 reflected at the top of the page, and the 12:40 entry
5 lists Mrs. Clinton and Melanne Verveer to the second
6 floor.

7 Do you recall this specific entry to the
8 second floor with Mrs. Clinton?

9 A No, I don't recall it specifically, but if
10 I referenced her schedule and my schedule, I'd
11 probably be able to figure it out.

12 Q Do you recall whether Whitewater could have
13 been discussed at this specifying meeting?

14 A I don't recall, but I didn't usually
15 discuss Whitewater, except in the way I already
16 relayed.

17 Q Okay. Incidentally, do you have your
18 schedule with you here today?

19 A No, I don't.

20 Q Okay. Now, this list that you went to the
21 second floor, as I understand it, access to the third
22 floor is unimpeded from the second floor of the White

1 House residence.

2 Do you recall whether you went on to the
3 third floor in this specific meeting?

4 A I have no recollection of going to the
5 third floor.

6 Q Okay.

7 MR. IVEY: Can we go off the record for a
8 second?

9 (Discussion off the record.)

10 BY MR. DINH:

11 Q Ms. Verveer, I am going to show you what I
12 will ask the reporter to mark as Verveer Exhibit 1.
13 And this -- let me represent to you, this is a floor
14 plan of the third floor of the White House.

15 It is a rather old floor plan, it dates
16 back to the Truman renovations, so this is the only
17 public document we have of the third floor, so it
18 looks rather confusing.

19 But let me explain to you where all these
20 things are so hopefully to orient you, with respect
21 to your knowledge of the third floor.

22 Where my pen is is Room 337, is the sun

1 room, which is now the solarium, that is on the south
2 side of the White House. So this would -- on this
3 diagram, south would be the top of the diagram.

4 Behind me on this -- what is corridor
5 labeled 354 is the main corridor of the third floor.
6 And where I have marked my pen with an X here at
7 number -- at structure numbered 390, that is the main
8 elevator that goes from the ground floor up to the
9 third floor.

10 Is that your normal way of entering the
11 White House residence is through the elevator on the
12 ground floor?

13 A Right.

14 Q So you take that elevator all the way up to
15 the third floor, you would end up here --

16 A Right.

17 Q -- at that point?

18 A Right.

19 Q You come out of that elevator, if I can
20 direct your attention to what is here, I have
21 labeled -- I have highlighted as Room Number 323.

22 You've testified earlier that you -- you

1 sometimes go up there to a room where Mrs. Clinton
2 was in order to work on her book.

3 Is this that room that you were talking
4 about earlier?

5 A Yes.

6 Q Okay. So Room 323 was that room.

7 Now, if you turn your attention to the
8 room, I guess that would be called catty corner, to
9 that -- to the entrance to Room 323, where I've got
10 my pen as room 319A, let me represent to you that
11 that is what I understand to be commonly known as the
12 book room, and through that is Room 319, which is a
13 closet used for -- to keep table linen.

14 And then through the book room, there is an
15 entrance at Door 355, and this would reflect the
16 south -- the southeast -- southwest corner of
17 the -- of the third floor of the White House
18 residence.

19 There is on this diagram three rooms, Rooms
20 320, 321 and 322, and let me represent to you that
21 these three rooms are now one room, the walls in
22 between them have been removed, and those three rooms

1 represent the -- the exercise room for the White
2 House residents up there on -- on the third floor.

3 Let me ask you, with respect to -- now,
4 that you've oriented yourself with respect to that
5 third floor, I would ask the court reporter to mark
6 that as Verveer Exhibit 1.

7 (Verveer Exhibit Number 1 identified.)

8 BY MR. DINH:

9 Q Let me turn your attention back to
10 July 21st, 1995, which is the usher's log of which I
11 had shown to you earlier, that is the page S02002,
12 and again the 12:40 entry for you and Mrs. Clinton to
13 the second floor.

14 And I wanted to direct your attention to
15 the specific entry to and see whether you recall
16 going up to the third floor during that particular
17 visit, and you said you did not?

18 A That's correct.

19 Q You do not recall that. Do you recall
20 specifically whether you entered Room 323 on that
21 particular visit?

22 A I have no recollection of going that day.

56

1 Q Okay. Let me ask you more generally. Do
2 you recall at any time since you've been at the White
3 House whether you've entered the book room, that is,
4 Room 319A on our diagram that you explained earlier?

5 A Yes, I've been in the book room.

6 Q How many times approximately is that?

7 A I think I've been in the book room twice.

8 Q Can you -- can you give me a description of
9 each of those times?

10 A To the best I can recall, I think on each
11 of those times, I was going up to meet with
12 Mrs. Clinton in the computer room, and she was on the
13 phone, and I just waited until she finished and went
14 in to talk to whoever was in the book room.

15 Q Okay. When you said the computer room, you
16 were pointing to Room 323?

17 A Correct.

18 Q Okay. And why did you go to Room 319A in
19 order to wait for Mrs. Clinton; is that the natural
20 place to go?

21 A No, it's because there was someone there to
22 talk to.

1 Q Okay. Who usually uses that space if you
2 recall?

3 A I don't know who usually uses it. During
4 the work on the book, people who were involved in
5 the -- that effort were there.

6 Q Okay. You said both of these times you
7 went to meet Mrs. Clinton, would these have been
8 after she came back from her trip to China?

9 A Yes.

10 Q Okay. So this would be after midSeptember
11 of 1995?

12 A That's correct.

13 Q And prior to these two -- prior to
14 September 1995, you never entered the book room?

15 A That's correct, to the best of my
16 recollection.

17 Q You mentioned generally that people were
18 working on the book, do you recall specifically who?

19 A I don't recall who was there those times
20 precisely.

21 Q But there were people working in the room?

22 A That's my recollection. I may have just

1 walked in and walked in on one occasion, there was
2 nobody there.

3 Q Okay. And how long did you remain there on
4 the other occasion that you entered the book room?

5 A Very briefly, a few minutes.

6 Q And you do not recall who you talked to
7 during those few minutes in the book room?

8 A No.

9 Q Actually while I remember, you mentioned
10 earlier that with respect to each of these entries
11 into the White House, you had -- with respect to this
12 particular one, you had no specific recollection, but
13 if you refer to your schedule or other resources, you
14 may be able to have more specific recollection.

15 I would only ask that if your
16 recollection -- any additional recollection leads you
17 to believe that you may have discussed Whitewater
18 Development Corporation, Madison Guaranty Savings and
19 Loan Corporation, Capital Management Services, David
20 Hale or Seth Ward with the First Lady or if you
21 specifically remember going into the third floor,
22 with respect to any of these particular entries that

1 you would ask your counsel to make it known to us.

2 A I am confident that I had no discussions
3 about those four topics.

4 Q Okay. Let me turn your attention now
5 to -- let me turn your attention now to document
6 number S020030, and this is the second page of the
7 log for Tuesday, August 8th, 1995.

8 And let me represent to you that these
9 logs, they look a bit different from the logs I
10 showed you earlier, these are what are called F-1
11 Movement Logs.

12 These are the logs kept by the security
13 service officer to the entrance to the ground floor
14 of the elevator that we were talking about earlier.

15 And let me direct your attention to where
16 my pen is, which is about halfway down the page, and
17 it shows there that Melanne Verveer entered, went up
18 into the residence at 11:00 o'clock and went down at
19 1:22.

20 And then it shows an additional entry up at
21 the 1533 which in military time -- which is in
22 military time, and normal time is 3:33. And then

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1 down at the 1550, 3:50, for both of these statements,
2 location was designated as the second floor.

3 Let me ask you if you recall on this
4 particular date these two -- these two entries into
5 the White House residence?

6 A I don't recall them. This would have been
7 on August the 2nd?

8 Q This was on August 8th, 1995, I'm sorry.

9 A August the 8th. I thought I was out -- I
10 may still have been out of town. Can I check a
11 calendar?

12 Q Sure.

13 MR. WHITEHOUSE: Spelling is sufficiently
14 aberrant from the accurate spelling of her name, one
15 might wonder.

16 MR. DINH: It's spelled here M-E-L-E-A-N-E,
17 V-E-V-E-E-R.

18 THE WITNESS: I just want to look at '95.

19 MR. WHITEHOUSE: The 8th is a Tuesday.

20 MR. DINH: Yes.

21 THE WITNESS: That would have been when I
22 was on vacation.

1 BY MR. DINH:

2 Q Yes, you testified earlier that you were on
3 vacation. When did you leave on vacation?

4 A I left July 29th, I think. Now, that may
5 have been the day I came back --

6 Q Okay.

7 A -- briefly. I'll have to -- I don't
8 remember.

9 Q Where did you go on vacation?

10 A To Nantucket.

11 Q Did you come back to Washington, D.C. in
12 the middle of your vacation?

13 A Yes, I came back once.

14 Q Was it work-related --

15 A Yes, it was.

16 Q -- reasons that you were -- that you had to
17 come back? Do you recall going into the White House
18 residence incidental to this trip?

19 A I don't recall.

20 Q And what was the reason for you to come
21 back, I'm sorry?

22 A It had to do with preparations for the

1 Beijing conference, and Mrs. Clinton was receiving
2 the delegation. And there was a delegation
3 orientation that I personally came back for, and then
4 there was the separate meeting with her and the
5 delegation.

6 Q Okay. The delegation from Beijing?

7 A No, the United States' delegation to
8 Beijing --

9 Q Okay.

10 A -- before they left.

11 Q Did you have meetings when you came back in
12 the middle of your vacation with Mrs. Clinton?

13 A I don't remember any meetings, but I would
14 have briefed her on the events.

15 Q And do you recall where you briefed her?

16 A I don't recall. It could have been on the
17 telephone, it could have been in the residence I
18 guess.

19 Q Okay. Could it have been on the third
20 floor of the White House residence?

21 A No.

22 Q Okay. So this was not one of the times

1 that you met with Mrs. Clinton in her office on the
2 third floor or in the solarium on the third floor?

3 A That's correct, to the best of my
4 recollection.

5 Q Let me direct your attention now to a
6 document labeled S020325, and as you can see, it
7 looks like the other record that was -- that you were
8 looking at earlier.

9 This is the F-1 Movement Log for Monday,
10 August 14th, 1995 which you testified that was the
11 day you came back from vacation.

12 And let me direct your attention to the
13 fourth entry from the bottom there, it says Melanne
14 Verveer, again, horribly spelled, entered at 1640 and
15 exited at 1840.

16 And do you recall this specific entry into
17 the White House?

18 A I don't recall precisely, but that must
19 have been the scheduling meeting before Mrs. Clinton
20 left on vacation.

21 Q And what made -- what leads you to that
22 conclusion?

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1 A Well, because there's Patty Soleis on the
2 list. Mrs. Williams is on the list, Ms. Caputo,
3 Ms. Stock, and I remember vaguely that there was a
4 scheduling meeting before she left.

5 Q Okay. Incidentally, how long do these
6 weekly scheduling meetings usually last?

7 A They vary, at least an hour.

8 Q Would they take as long as two hours?

9 A It could.

10 Q Let me ask you whether you recall this
11 particular meeting taking place on the third floor of
12 the residence?

13 A No, there's never been a scheduling
14 meeting, to my recollection, on the third floor of
15 the residence.

16 Q Okay. And with respect to this particular
17 entry, do you recall going into -- going up to the
18 third floor, you, yourself?

19 A I have no recollection of that. I doubt
20 it.

21 Q And do you recall any discussions regarding
22 Whitewater, Madison, Capital Management Services or

1 David Hale?

2 A I do not.

3 Q Okay. Let me ask you, prior to September
4 of 1995 when you testified earlier that you had
5 occasion to meet with Mrs. Clinton in Room 323, the
6 computer room as you called it, did you have occasion
7 to come to the third floor into room -- specifically
8 into Room 323 prior to that?

9 A I don't remember going into that room prior
10 to September.

11 Q Okay. So the first time would have been
12 after Mrs. Clinton came back from China and she was
13 working on her book?

14 A Right.

15 Q And you came up there for meetings with
16 her?

17 A A couple of occasions, deep into the fall.

18 Q Okay. Have you ever handled any documents
19 relating to the Rose law firm?

20 A I have not.

21 Q Have you ever had any conversations with
22 anyone in the White House regarding the

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1 billing -- any billing records from the Rose law
2 firm?

3 A I have not.

4 Q Okay. And I take it also that you've never
5 handled any Rose law firm billing records?

6 A That's correct.

7 MR. DINH: Off the record.

8 (Discussion off the record.)

9 BY MR. DINH:

10 Q And I take it that you have not had any
11 discussions with the First Lady regarding the Rose
12 law firm billing records?

13 A That's correct.

14 Q Okay. Have you ever -- have you ever seen,
15 and I note my description will be somewhat general,
16 and I will get the actual documents in order to show
17 you more specifically.

18 Have you ever seen a stack of documents
19 approximately one and a half inch thick measuring 11
20 by 17 inches, a large size stack of documents
21 reflecting approximately photocopies of computer
22 printouts anywhere in the White House?

1 A No, I haven't, to the best of my
2 recollection.

3 Q Actually, one other set of questions I had,
4 and I want to refer you back. I apologize for not
5 asking you this earlier when I was asking you about
6 your contact with Webster Hubbell.

7 I've placed in front you what I will
8 represent as messages from Mr. Hubbell's message pad,
9 and these represent calls on August 8th -- actually,
10 no, August -- I'm sorry, December 8th, 1993. And
11 they show Melanne calling Judge Hubbell at 11:30 and
12 at 12:00, the first time, 11:30, return your call,
13 please call, and the second time, telephoned, please
14 call.

15 Do you recall these -- and the Bates stamp
16 11206, and there's another Bates stamp called
17 GRO903.

18 Do you recall this -- these specific phone
19 calls to Judge Hubbell?

20 A No, I don't recall these specific phone
21 calls.

22 Q Would they have been consistent with what

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1 you have testified to earlier as to your contacts
2 relating to Legal Services Corporation?

3 A That's what I would think it is.

4 Q Okay. Did you have -- and I know I asked
5 you this before.

6 Did you tell -- do you have any reason to
7 believe that these were on matters unrelated to that
8 legal -- to that matter, that is, Legal Services
9 Corporation?

10 A Not that I can recall.

11 Q Okay. Let me ask you now to take a look at
12 what I will -- what has been produced to us as
13 DKSNO28928 through DKSNO209043.

14 And let me represent to you that these are
15 the records that I had tried to describe rather
16 imperfectly earlier, and ask you to take a minute to
17 look through those records.

18 (Witness reviews the document.)

19 BY MR. DINH:

20 Q Have you ever seen these records before?

21 A No, sir.

22 Q And have you seen records like these

1 anywhere in the White House; that is, according to my
2 description earlier, one and a half inch thick,
3 measuring 11 by 17 inches?

4 A No.

5 Q And you've not had any discussions with
6 anyone relating to Rose billing records which you've
7 testified to earlier?

8 Have you had any discussions with anyone
9 relating to records that look like this?

10 A I don't recall having any such discussions.

11 Q Okay. Let me turn back now to the period
12 in the summer of 1993 which I had asked you some
13 questions previously about specifically with relation
14 to any contacts you may have had with John Spotila,
15 then the general counsel of the SBA.

16 And the reason I have delved into that area
17 is when Mr. Spotila testified before the special
18 committee -- in deposition before the special
19 committee, he had recalled that he may have talked to
20 you regarding possible criminal indictments against
21 David Hale who was -- who at the time was president
22 of Capital Management Services Corporation, which was

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1 a company that was being investigated by the FBI and
2 the SBA and is a company doing business then in
3 Arkansas.

4 Let me read you a portion of his
5 deposition.

6 MR. WHITEHOUSE: Can I ask that you just
7 put a citation on the record of this deposition where
8 you're reading from?

9 MR. DINH: Definitely.

10 BY MR. DINH:

11 Q This is a deposition of John T. Spotila on
12 November 6th, 1995, at page 27 through 29. And it
13 has to do generally with information that Mr. Spotila
14 received from one of his subordinates regarding a
15 criminal indictment that was imminent with respect to
16 Mr. Hale, and at page 28, the question is:

17 "Question: Is there someone at the White
18 House you may have had some weekly contact with that
19 might have been a person you would have been -- you
20 would have notified of this?"

21 And by "this," I mean the information that
22 an indictment of David Hale was imminent.

1 "Answer: Back in September, normally
2 weekly reports went through our chief of staff Katie
3 Boren. I don't -- in the last two years, obviously,
4 I have dealt with people in the White House. I'm
5 trying to think who I would have dealt with there.

6 "I don't recall any -- there was no one I
7 had a formal reporting relationship to at the White
8 House at that time or since then, for that matter,
9 where I would have given weekly reports verbally to
10 anyone.

11 "Question: Is there someone that you were
12 more friendly with at the White House that you must
13 have discussed in terms of giving them some kind of
14 heads-up on this information.

15 "Answer: It is possible I would have said
16 something to Melanne Verveer, but it would have
17 been -- it would only have been -- the indictment
18 would be public and in the newspapers, so it is
19 possible that I said something to Melanne about it.
20 I don't remember anyone else I would have
21 particularly talked to.

22 "Question: Now, why would it have been a

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1 relevance to Melanne Verveer, if you did tell her?

2 "Answer: I don't know that it would have
3 been of relevance. I was on the job at this point a
4 week, and Melanne was a friend who worked in the
5 White House, probably helped me in some way to get
6 the job. So it is possible that I would have
7 mentioned it in a conversation with her.

8 "Question: Now, what was her position
9 again?

10 "Answer: She is a Deputy Chief of Staff
11 for Mrs. Clinton, but I would not have briefed her.
12 I didn't get into the substance of it."

13 And that was the end of that, at page 30 of
14 the -- of his deposition.

15 Do you recall any such conversations with
16 Mr. Spotila possibly in the weeks following his
17 appointment as general counsel?

18 A I have no recollection.

19 Q He did not mention to you that a criminal
20 indictment may be imminent --

21 A Not that I recall.

22 Q -- that Mrs. Clinton or President Clinton's

1 name may come up as a result of that indictment?

2 A Not that I recall.

3 Q Okay. And you said earlier that if the
4 Clintons name were mentioned, you would recall
5 something like that; correct?

6 A I would think I would recall it. I have no
7 recollection of this.

8 Q Okay.

9 MR. IVEY: Could you read back the last
10 question?

11 (The reporter read back the portion as
12 requested.)

13 BY MR. DINH:

14 Q And I take it then that -- you don't recall
15 talking to anybody else about it -- about any such
16 information?

17 A That's correct.

18 MR. WHITEHOUSE: Such information again
19 which Mr. Spotila's deposition refers to?

20 MR. DINH: Exactly, yes.

21 BY MR. DINH:

22 Q Do you recall talking generally with

1 Mr. Spotila at this period? I know you said you had
2 some rather infrequent contacts with him since he's
3 come to town, but with respect to this particular
4 period and then the beginning of his tenure and when
5 he first came to town --

6 A I don't have any specific recollection,
7 except for those things we've already talked about.

8 Q Like him finding a house and things like
9 that?

10 A Yes.

11 Q Have you ever heard of Martin Techler?

12 A No, sir, not to my knowledge.

13 Q Or Cecilia Seay, S-E-A-Y?

14 A No.

15 Q Do you know who Kevin Berlin is?

16 A No.

17 Q Ran Boers, B-O-E-R-S?

18 A No.

19 Q Mark Davis?

20 A Not that I recognize.

21 Q Mary Ann Delarieves, D-E-L-A-R-I-E-V-E-S?

22 A No.

1 Q Joe Dimenta, D-I-M-E-N-T-A?
 2 A No.
 3 Q Allen Klesler?
 4 A No.
 5 MR. IVEY: Could you spell the last name?
 6 MR. DINH: K-L-E-S-L-E-R.
 7 BY MR. DINH:
 8 Q Sheila Martinstone?
 9 A No.
 10 Q Evan McWilliams?
 11 A No.
 12 Q Katherine Mehlberger, M-E-H-L-B-E-R-G-E-R?
 13 A No.
 14 Q Tom Oaks, O-A-K-S?
 15 A No.
 16 Q Jerry Strich, S-T-R-I-C-H?
 17 A No.
 18 Q Or Irene Torika T-O-R-I-K-A?
 19 A No.
 20 MR. DINH: I have nothing further. Thank
 21 you.
 22

1 EXAMINATION
 2 BY MR. IVEY:
 3 Q Let me return to Mr. Spotila's testimony
 4 which he gave at a deposition on November 6th, 1995.
 5 As a follow-up to what Mr. Dinh read to you on page
 6 30 of his testimony, he was asked the following:
 7 "Question: How frequently would you talk
 8 to Melanne Verveer about this?
 9 "Answer: There was no regular basis. I
 10 guess you need to understand, I had started at the
 11 SBA on the 16th, my family was still in New Jersey.
 12 I was living in a, you know, in an apartment on a
 13 month-to-month lease, so I didn't know that many
 14 people in Washington.
 15 "Melanne was someone I had known from
 16 Georgetown days, so I had a long -- I had a long
 17 standing personal friendship, so she would be a
 18 person that I would talk to or someone that I happen
 19 to know in Washington at the time, as opposed to her
 20 and particularly in her official capacity.
 21 "I didn't have any kind of -- I didn't
 22 have regular conversations, if you will, other than

1 ones with friends, and that tended to be now and
2 then. I don't particularly recall what times that
3 might have been."

4 Now, you testified earlier that he had
5 spoken with you, or you vaguely recalled him speaking
6 with you with respect to his family, and I believe
7 you mentioned in the context of him trying to find
8 housing for them; is that correct?

9 A That's correct.

10 Q So that's consistent with that part of the
11 testimony that I just read?

12 A That's right.

13 Q You also mentioned that you had met him at
14 Georgetown?

15 A That's correct.

16 Q Okay. So that's also consistent with his
17 testimony?

18 A That's correct.

19 Q And I think he says here that there was no
20 regular basis for conversations in that he didn't
21 speak to you in -- in your official capacity, which I
22 believe is also correct consistent with what you

1 testified about previously?

2 A That's correct.

3 Q Mr. Spotila also testified about this later
4 in his deposition.

5 "Question: Just so I am clear, the
6 instances you were talking about of conveying
7 information to the White House would be provided to
8 the documents during the November 16th period; is
9 there another instance?

10 "Answer: Oh, no -- I guess he's referring
11 to the other counsel -- "I had asked whether he had
12 made any mention in September to Melanne Verveer as
13 to the fact that Hale was about to be indicted.

14 "And I might have testified earlier that I
15 might have said something, but I didn't view that as
16 notice to the White House other than those -- other
17 than that, depending on how you want to characterize
18 that, and the Eggleston context. Those were what I'm
19 referring to."

20 MR. DINH: Can you reference when you
21 referring to?

22 MR. IVEY: I'm sorry, page 100 where the

1 question started at line 17.

2 MR. DINH: Okay.

3 MR. IVEY: And I'm on page 101 now.

4 MR. DINH: Okay.

5 MR. IVEY: I just finished reading line 8.

6 MR. DINH: Okay, thank you.

7 BY MR. IVEY:

8 Q Now, we went to page 102, line 2.

9 "Question: Now, at the time that you spoke
10 with Ms. Verveer, is it fair to say that your
11 knowledge of the investigation of CMS was a bit
12 sketchy?

13 "Answer: It is completely minimal.

14 "Question: So the conversation that you
15 could have had with her at best would not have
16 conveyed any substance relevant to the
17 investigation?

18 "Answer: That's correct."

19 Now, I take it from your previous testimony
20 that you don't recall having any type of substantive
21 conversations with Mr. Spotila, or I take it anyone
22 else for that matter with respect to David Hale or

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1 CMS?

2 A That's correct.

3 Q In fact, I think you testified earlier that
4 you didn't even know who Capital Management Services
5 was?

6 A That's correct.

7 Q Do you recall the first time you had heard
8 anything about David Hale?

9 A The only thing that I know about David Hale
10 is some news accounts, and I couldn't describe what
11 he did with any precision at all or what -- what the
12 allegations are.

13 Q Okay. Now, you're not from Arkansas I take
14 it?

15 A I am not.

16 Q And you didn't work in Arkansas during the
17 campaign?

18 A I did not.

19 Q Did you know that David Hale was a judge
20 who was based in Arkansas and CMS was a company that
21 was also incorporated in Arkansas?

22 A Well, as I said to the extent I know

1 anything, it's from newspaper accounts. And I
2 couldn't -- I couldn't have said that to you if you
3 hadn't just said it, because I don't really know it.

4 Q Okay. So in your official capacity, you
5 have no knowledge whatever about --

6 A I have had no dealings on this whatsoever.

7 MR. WHITEHOUSE: You've got to let him
8 finish his questions, too.

9 THE WITNESS: I know.

10 MR. WHITEHOUSE: Equal treatment.

11 BY MR. IVEY:

12 Q You were also asked some questions about
13 Martin Tachler and Cecilia Seay, S-E-A-Y, who are
14 both people who were connected with the Small
15 Business Administration. My recollection of your
16 answer is that you don't know who they are?

17 A That's correct, those are not names I ever
18 heard before.

19 Q Have you ever had any dealings with the
20 SBA in an official capacity?

21 A The only --

22 MR. WHITEHOUSE: You mean apart from the

1 earthquake thing she described in the prior
2 testimony?

3 MR. IVEY: Right.

4 THE WITNESS: I may have had dealings with
5 respect to William -- the William loan program with
6 respect to the Beijing commitments, making credit
7 more available to women, but not in any other
8 context.

9 BY MR. IVEY:

10 Q Have you ever handled any media issues for
11 the White House with respect to the Small Business
12 Administration?

13 A No, sir. There is one other SBA dealing
14 that in the context of this women's piece, there is a
15 woman by the name of Pulley who was at the SBA, I
16 think she was the Number 2 person. She went to
17 Denver with Mrs. Clinton several months ago to visit
18 a site and meet with women who had been the
19 beneficiaries of SBA programs, training programs,
20 microlending programs; that would have been the only
21 other situation that I can recall.

22 Q And you said this would have been a few

1 months ago?

2 A It would have been postBeijing, so it would
3 have been probably sometime in the fall of '95.

4 Q But definitely not in 1993 --

5 A Correct.

6 Q -- 1994?

7 A Correct.

8 Q Do you know what the SSBIC program is?

9 A No, I don't.

0 MR. IVEY: I don't have any other questions
1 at this time.

2 MR. DINH: I do thank you, Glen.

3 EXAMINATION (Continued)

4 BY MR. DINH:

5 Q I just wanted to get clear on the record so
6 that we can hopefully resolve this matter with
7 respect to Mr. Spotila.

8 As you testified earlier, much of your
9 testimony is indeed consistent with Mr. Spotila. And
0 I just want to be clear where the difference is so we
1 can have our issues completely clear in our mind.

2 On page 98 of his deposition, that is again

1 November 6th, 1995.

2 "Question: Other than possibly notifying
3 the White House of Hale's pending indictment and
4 other than sending over copies of the attachments
5 that went to Congressman LaFaltz, are you aware of
6 any other information that was conveyed to the White
7 House? Are you aware of any other information that
8 you conveyed to the White House with respect to
9 Capital Management or Hale?

0 "Answer: Let me just clarify. I am not
1 sure that I would characterize it as notifying the
2 White House of the indictment. As I mentioned --

3 "Question: I think the words I used were
4 possibly notifying.

5 "Answer: In any event, I'm not aware of
6 anything other than those two.

7 "Question: Can you explain what you mean?

8 "Answer: By that I mean that if I
9 said -- I said I might have had a conversation with
0 Melanne Verveer who was a personal friend, and I may
1 have mentioned to her that there was an
2 indictment -- to her there was an indictment she was

1 about to read about in the newspapers.

2 "I didn't really -- I don't know that I
3 would characterize that as notifying the White
4 House."

5 A And I have no recollection of that.

6 Q Okay. You have no recollection that he
7 told you that there was an indictment pending that
8 was imminent that you were about to read in the
9 newspapers?

10 A Yes.

11 Q This would have been approximately a week
12 or two after he was appointed as general counsel?

13 A I have no recollection of that.

14 MR. IVEY: Just the predicate of the
15 question, I want to make sure that I'm clear on the
16 way you phrased that, you phrased it as if the
17 testimony was that he had definitely said that.

18 It was my reading of the testimony, quote,
19 I said I might have had a conversation with Melanne
20 Verveer.

21 MR. DINH: I think I read the entire answer
22 into the record, and I think Ms. Verveer understood

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1 that as the predicate.

2 BY MR. DINH:

3 Q There was no predicate other than whether
4 you, yourself, Ms. Verveer recall any such
5 conversation with Mr. Spotila.

6 A Right.

7 Q And you do not?

8 A I do not.

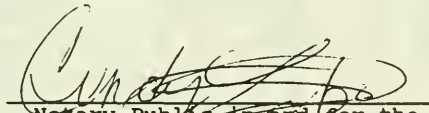
9 MR. DINH: Okay. I have nothing further.
10 Thank you for your time. Happy President's day.

11 MR. WHITEHOUSE: Thank you both very much.
12 (Thereupon, at 4:01 p.m., the deposition
13 was concluded.)
14

15 -----
16 MELANNE VERVEER
17
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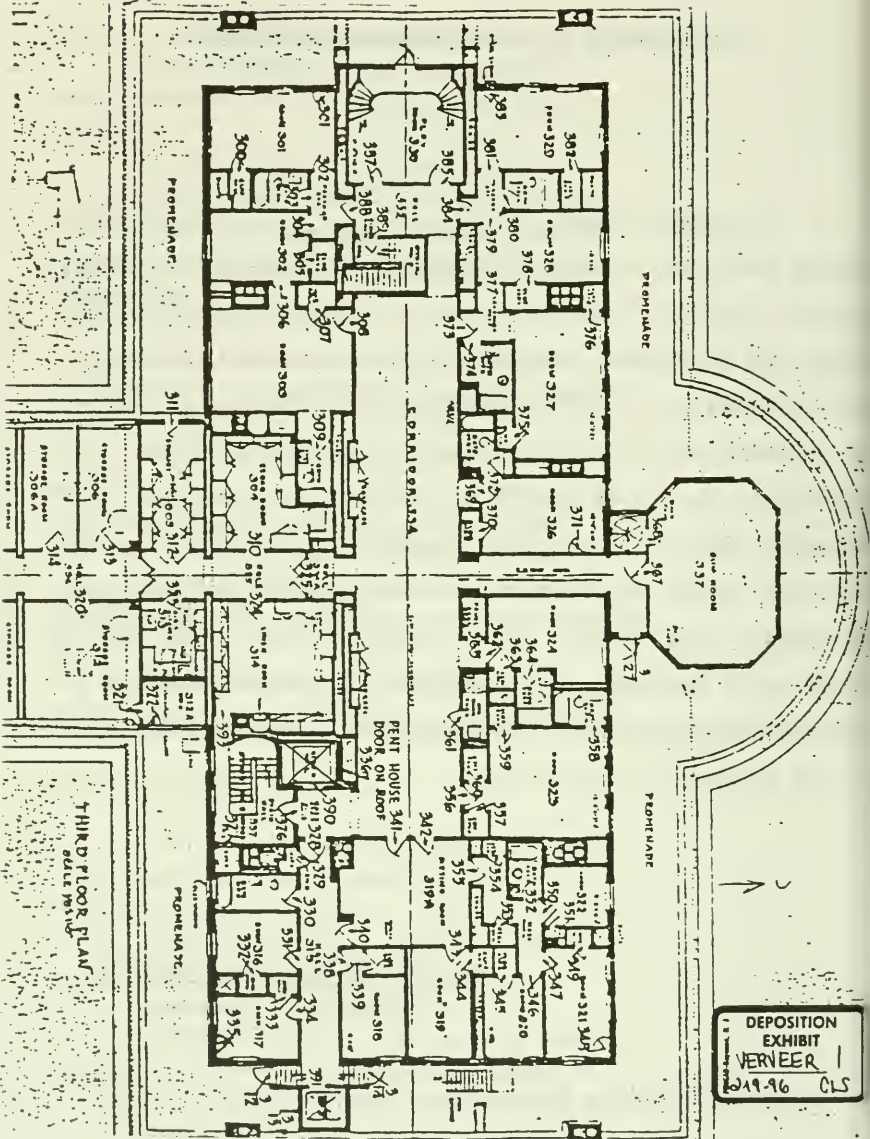
CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CINDY L. SEBO, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000



**DEPOSITION OF JOHN W. MYERS
IN RE: S. RES. 120**

TUESDAY, FEBRUARY 20, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of JOHN W. MYERS, called for examination pursuant to notice of deposition, at 12:55 p.m. in Room 340-A of the Hart Senate Office Building, before CARMEN BUNCH, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.

Majority Associate Special Counsel

JAMES S. PORTNOY, Esq.

Minority Associate Special Counsel

MITCHELL FEUER, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

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PROCEEDINGS

MR. O'CALLAGHAN: On the record.

Good afternoon, Mr. Myers. My name is Michael O'Callaghan, associate special counsel for the Majority of the Special Committee. With me is Mitchell Feuer and James Portnoy, also counsel -- rather with the Minority.

This is a phone deposition being conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the Arkansas Development Financial Authority and other related matters.

Before we begin the deposition, we asked you if you would consent to being sworn in via telephone. And I just wanted to ask you now on the record whether you consent to have that done.

THE WITNESS: I do.

MR. O'CALLAGHAN: Please swear the witness.

4

Whereupon,

JOHN W. MYERS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. O'CALLAGHAN:

Q Mr. Myers, this deposition is in advance of public hearings which are likely to occur later this month in February, and there is a possibility you may be called to testify at those hearings. We're employing to ask you a series of questions today. You are testifying under oath. You've been sworn in.

If you don't understand a question, either let me or Minority counsel know and we'll be happy to rephrase the question for you.

Additionally, if you need a break, let us know and we'll be happy to accommodate you as well.

A Okay.

Q The stenographer is preparing a record of questions and answers. The deposition transcript will be treated as committee confidential until the

1 commencement of hearings.

2 Prior to hearings, you will also be given a
3 chance to review your deposition for purposes of
4 making any corrections or changes on an errata
5 sheet. You also will have an opportunity to review
6 it in the event that you're called before the Senate
7 for the hearings, to review it to prepare for any
8 testimony you might be asked to give.

9 Do you understand that you may be
10 represented by counsel today?

11 A No, I'm just by myself.

12 Q But do you understand that that opportunity
13 is one that is available to you?

14 A You bet I do.

15 Q Okay. And you've decided not to be
16 represented by counsel?

17 A That's correct.

18 Q Objections to the form of questions today
19 will be noted for the record and objections may be
20 made on grounds of privilege or relevance. And the
21 committee chairman will rule on objections where the
22 witness refuses to answer a question.

1 Could you please state and spell your full
2 name for the record.

3 A My full name is John W. Myers, M-y-e-r-s,
4 and it's J-o-h-n, W is for William.

5 Q Did you speak with anyone prior to the
6 deposition about the deposition?

7 A Yes.

8 Q Who did you speak with?

9 A My two business partners, my legal counsel
10 and one other person who you've taken a deposition
11 from, Johnny Mitchum.

12 Q In the conversation you had with
13 Mr. Mitchum, did you discuss the substance of his
14 deposition?

15 A Yes. I asked him whether he had been
16 involved and he said yes. And he said he went to
17 Washington and appeared before you guys for five or
18 six hours, and in essence that's the extent of it.

19 Q Did he discuss with you what his testimony
20 was?

21 A No, he did not.

22 Q Did you have any discussions with anybody

1 about the potential substance of the testimony you
2 anticipate giving today?

3 A No, just as I mentioned, my two partners
4 are curious about it and my wife is.

5 Q Did you do anything to prepare for the
6 deposition today, review documents or review the
7 events you think we might be asking you about with
8 anyone?

9 A No, other than answering questions from my
0 partners as to what my involvement would have been,
1 and trying to recollect in the shower this morning
2 what went on six or seven years ago. I'm not even
3 certain of the date. That's all that I've done. I
4 do not have any documentation available to me in
5 regard to the state police bond issue.

6 Q You didn't review any of the events with
7 Mr. Mitchum when you spoke with him?

8 A No, only to the extent he said, you know,
9 that -- what had transpired six or seven years ago,
0 because my involvement in this is very small.

1 Q Do you recall what you discussed with
2 Mr. Mitchum?

1 A Yeah. I said John, the only thing that
2 happened was that you asked me to calculate some
3 numbers for you and I calculated those numbers for
4 you. And then I was asked to appear before a
5 legislative advisory committee, which I went to, to
6 that meeting, and I was not called. And as far as I
7 know, the bond issue, as the state police committee
8 had the successful bidder, that nothing had changed
9 anything, on the basis of anything that had gone on.
0 And that's all I know about it.

1 Q I guess the specific question is what you
2 spoke to Mr. Mitchum about with regard to this.

3 A Just what I just told you.

4 Q Okay. Have you had any conversations with
5 anyone else with regard to this deposition or the
6 substance of it?

7 A As I told you before, just my two business
8 partners and my own legal counsel.

19

20

21 Q What's your present business address?

22 A 400 Natural Resources Drive, Little Rock,

1 Arkansas, AR 72205.

2 Q Are you presently employed?

3 A Yes, I am president of Myers, Loveless,
4 Brandsgaard, Inc. That's my name, M-y-e-r-s,
5 Loveless, L-o-v-e-l-e-s-s, Brandsgaard,
6 B-r-a-n-d-s-g-a-a-r-d.

7 Q And what's your current business?

8 A We're a registered investment adviser and
9 we administer qualified retirement plans.

10 Q Could you give me a brief description of
11 your employment since 1980?

12 A From 19 -- actually from 1973 when I moved
13 to Little Rock until October of 1982, I was vice
14 president and then executive vice president of First
15 Variable Life Insurance Company, functioning as their
16 marketing head.

17 In 1982 I resigned and formed a retirement
18 plan administration firm and investment advisory firm
19 as a sole proprietor.

20 In 1984 I incorporated that business under
21 the name of JWM, Inc., and in 1995 I sold interest in
22 the business to Mr. Loveless and Mr. Brandsgaard, and

10

1 they are now stockholders and hence the name change.

2 Q And are you a college graduate?

3 A No, sir.

4 Q Do you have any professional licenses?

5 A Yes, I am a member of the American Academy
6 of Actuaries, I am a member of the American Society
7 of Pension Actuaries, I am an enrolled actuary under
8 the Joint Board for the Enrollment of Actuaries under
9 the U.S. Treasury Department, under ERISA. I'm a
10 chartered life underwriter. I am a registered
11 securities principal since 1967, and I am a
12 registered investment adviser under federal statute
13 SEC and Arkansas statute since I went into business
14 for myself in 1982.

15 Q And did you graduate from high school?

16 A Yes.

17 Q Where did you graduate from high school and
18 what year, please?

19 A St. Michaels Central High School in
20 Chicago, Illinois.

21 Q What year was that?

22 A Excuse me, I didn't say that. 1956.

1 Q During the period 1984 through 1985, were
2 you an actuary at that time?

3 A Yes, I became an actuary or received the
4 actuarial designations in 1978 and '79. So ever
5 since that time, I've been in the practice of
6 actuarial science.

7 Q Could you give a brief description of what
8 exactly an actuary does or what it means to be an
9 actuary?

0 A It means that you should have a
1 mathematical background. You go through a whole
2 bunch of tests. The practice of actuarial science,
3 if you are a life insurance actuary, that's the guy
4 that develops the premium and cost for a life
5 insurance policy. I am a pension actuary and so I
6 develop and certify the contribution amounts that are
7 necessary to fund a qualified retirement plan in
8 accordance with the Treasury regulations.

9 Q Were you doing that same kind of work in
0 1984 and 1985?

1 A Yes.

2 Q You mentioned a number of different

1 certifications and licenses you had, that you have
2 right now.

3 A Yes.

4 Q How many of those did you have during 1984
5 through 1985?

6 A All of them.

7 Q Are you familiar with the bond underwriting
8 that was undertaken in 1985 to provide capital for
9 the purchase of a new police radio system for the
0 state of Arkansas?

1 A Yes, I am aware of it.

2 Q And how are you aware of that?

3 A I was asked by Johnny Mitchum after the
4 successful bidder had been selected, to review their
5 decision and give them opinion as to the financial
6 aspects of it, which I did.

7 Q And had you known Mr. Mitchum before he
8 hired you to do this?

9 A Yes.

0 Q How did you know him?

1 A John owned a hospital in Batesville,
2 Arkansas that he had purchased, I believe it was a

1 year or two before that, that had a defined benefit
2 pension plan. And I was hired to be the actuary to
3 do the certifications and to terminate that
4 retirement plan.

5 I completed that work and I suppose that's
6 some time in late 1984 when that was done.

7 Q How did he come to hire you to do the
8 analysis that you just described?

9 A John called me up and asked me whether or
10 not I could review it and do the numbers for him, do
11 a calculation for him, and I said yes.

12 Q When he called you, had he told you that a
13 decision had already been made on which underwriter
14 to pick?

15 A Yes.

16 Q Do you know how soon after the decision had
17 been made you were called?

18 A I'm not certain. I've got to say that it
19 was not a lengthy period of time. I've got to say it
20 was something like maybe two weeks or so, but that's
21 a guess.

22 Q And I realize this was a while ago, but I

1 wondered if you could explain to me, when he called
2 you up to ask you to do the work, how he described
3 what task he wanted you to perform and what he asked
4 you, what you were capable of doing.

5 A He asked me whether I could look at the
6 three or four different proposals that had been
7 presented to the state police board, and whether I
8 could run some numbers to see whether or not the bid
9 that they had selected was in fact the best of the
10 four bids. And that was a present value calculation,
11 and my memory says that's what I did.

12 Q Did he ask you to do a present value
13 calculation or is that something that you offered to
14 do?

15 A Well, he asked me to do a study that would
16 confirm what their findings were. And in my
17 judgment, the way to do that was, I believe, to do
18 present value numbers.

19 Q Had they done a present value analysis
20 previous to the one you did?

21 A I don't know.

22 Q Were you given a copy of a document that

1 identified what their findings were?

2 A I believe so.

3 Q Do you recall what format that was in?

4 A No, I don't recall.

5 Q And just so we're clear, you stated that
6 you were asked to do a study to confirm what their
7 findings were. Was that the commission's findings or
8 do you know whose findings he was referring to?

9 A Yeah, yeah, I mean their decision to go
0 with the winner as to whether or not in my opinion
1 actuarially, whether I concurred with that decision.

2 Q So you weren't, per se, being asked to
3 confirm; you were being asked whether you agreed with
4 their choice of the firm that they chose?

5 A I believe that's right.

6 Q What documentation were you given to review
7 in order to conduct your study?

8 A I believe I was given the four bids.

9 Q The four written bids or proposals by the
0 different underwriters?

1 A I believe so. I don't have anything to go
2 back and jog my memory on. There's no documentation

1 that I have here. I have moved my offices several
2 times since then, and if information wasn't needed,
3 it got tossed.

4 Q Could you describe what would be entailed
5 in doing a present value analysis?

6 A It would mean taking the cash flows,
7 including all of the costs, the interest that has to
8 be paid on the bonds, the expenses that are related
9 to the issuance of the bonds, and discounting those
0 amounts back to the present, using some interest
1 rate.

2 And I don't recollect whether there was
3 some additional discount made for whether or not the
4 bonds would have been called in the interim between
5 the present value date and the maturity date.

6 Q And what interest rate did you use? Was
7 that one provided to you or was that one you chose or
8 was it a current rate?

9 A I don't have the slightest idea. I mean, I
0 would most likely -- I believe I would have used my
1 own interest rate, but that's 11 years ago. I don't
2 remember.

1 Q How long did it take you to conduct the
2 analysis that you did?

3 A I think I probably spent maybe four to six
4 hours worth of time doing the study.

5 Q Did you create documentation that outlined
6 your analysis or did you review analysis that was
7 given to you, or both?

8 A Memory says that I looked at the bids that
9 were submitted. I don't think there was any written
10 commentary by the state police board as to why they
11 reached their decision, and so anything that would
12 have been prepared by me was prepared then on the
13 basis of that information.

14 Q We have a number of documents that have
15 been produced to the committee. And I understand
16 that you don't have any documents in front of you and
17 I realize -- I'm going to try to refer to a couple of
18 documents. I realize it's going to be difficult
19 because you don't have them there in front of you,
20 but unfortunately we have a procedure in place where
21 when people produce documents to us, there's a
22 confidentiality agreement which we've entered into

1 which limits our ability to share the documents with
2 third parties.

3 So I'm going to describe a document and
4 maybe it will help refresh your recollection as to
5 what kind of written record was made of the different
6 analyses done on the different proposals.

7 I have a multipage document in front of me
8 right now, Mr. Myers, and just for the record, it's
9 Bates stamps DKS N 027364 through 027371. And it's --
10 it's got a cover page on it which reads "State Police
11 Communications Bid Analysis." First paragraph reads
12 "Attached are the analysis sheets used by the state
13 police commission to arrive at the decision to award
14 the financing to E.F. Hutton, T.J. Raney and
15 Lasater."

16 I realize it's difficult to identify
17 through that kind of description, but do you recall
18 putting together a document similar to that?

19 A Yes.

20 Q Okay.

21 A If I had written something, it would have
22 been in that format, and I assume that that's on my

1 letterhead. It says JWM, Inc.?

2 Q This is not on letterhead, the copy that we
3 have. I'll continue reading and then you let me know
4 if it sounds like something that you would have
5 prepared. Is that okay?

6 A Okay.

7 Q "The following numbers are taken directly
8 from that analysis. The NPV (net present value)
9 analysis is used to equate different payment terms,
0 takes into account the fact that the state will have
1 the use of the driver's license revenues for 13
2 months at the beginning and every six months
3 thereafter under the Hutton proposal. Under the
4 First Capital proposal, the state will pay monthly."

5 And then it has a little table with a
6 column and it reads "bidder," another column that
7 reads "total net payment" and then the third column
8 which reads "NPV, net payment."

9 Then it lists the two bidders, "First
0 Capital, Raney Hutton," and then also says "the
1 difference."

2 And I'll continue reading. It says "If the

20

1 same analysis were done giving Hutton credit for its
2 reserve fund at 11.5 percent instead of 10 percent
3 and you used 8.5 percent as the NPV factor to reflect
4 the short-term rates available for the investment
5 every six months of the driver's license revenues,
6 the results would be," then there's another table
7 similar to the one I just read to you.

8 Do you recall putting together something
9 like that?

0 A It doesn't ring a bell.

1 Q So that does not?

2 A I don't think so.

3 Q Do you know if you did a specific analysis
4 of just two firms, First Capital and Raney Hutton, or
5 the Raney Hutton Lasater?

6 A I don't recollect. I think there was four
7 firms involved all together, and I think that had I
8 compared one I would have compared all four.

9 Q Okay. Well, the second page of the
0 document, it's dated 10 May '85, and again it's in
1 different typeface. This might have been something
2 you put together. It reads "State Police

1 Communication Bid Analysis." And under number 1, it
2 says "present value study." Then it has a list of --
3 it says "bidder" and then a list of First Capital
4 Corporation, Raney Hutton Lasater, Stephens then dab
5 Sullivan 1, dab Sullivan 2. The column to the right
6 of that lists the different costs. Then the second
7 item reads "other considerations."

8 Under that it has A, "timing of payments,"
9 and B, "size of bond issue" and C, "the best bid is
10 the best concept."

11 Are you familiar with a document like that
12 or similar to that?

13 A Yes, I just don't remember any of that. If
14 I had seen it -- if I could see it, it might jog
15 something, but without being able to see it, it --
16 what you're describing to me doesn't -- I don't have
17 any recollection of that.

18 Q Do you recall what kind of printer you had
19 back then? Did you use a typewriter or computer?

20 A No, anything that I would have done would
21 have been produced on a computer; it would have been
22 a Toshiba dot matrix. I don't think I bought my

1 first laser jet printer at that point.

2 Q So it would have been using a dot matrix
3 printer?

4 A Right.

5 Q Do you recall putting together analyses
6 which contained any tables of any length which would
7 map out the month and year of bond payments, then net
8 revenue, total net revenue with interest, net
9 payment, present value net payment and cumulative
10 present value net payments?

11 A That sounds like something that I would
12 have done, but without looking at it, I can't tell
13 you whether that's my work or not.

14 Q And you believe anything that you would
15 have prepared would have been on your letterhead?

16 A If I was to have given a written opinion?

17 Q Yes, sir.

18 A I would have given it on my letterhead and
19 the attachments, the actual calculation runs would
20 not have been on letterhead. They might have been on
21 border paper.

22 Q But do you recall running numbers and doing

1 runs on those figures?

2 A As I said earlier, I did some
3 calculations. I remember I spent three or four hours
4 worth of time on it, maybe longer, and it doesn't
5 seem possible -- doesn't seem reasonable to me that I
6 would not have given something in writing, but --

7 Q Would you have given that to Mr. Mitchum?

8 A Whatever I did, I would have given to
9 Johnny, yes.

10 Q And you think you would have given a
11 written opinion?

12 A Yes, I believe so.

13 Q Do you recall whether your analysis took
14 into account -- and I'm quoting from the first page
15 of the document I just read to you -- whether it took
16 into account the fact that "the state will have the
17 use of the driver's license revenues for 13 months at
18 the beginning and every six months thereafter under
19 the Hutton proposal, and that under the First Capital
20 proposal the state will pay monthly"?

21 A I don't remember any of the specific
22 details of what those four proposals were.

24

1 Q Do you remember generally what your
2 conclusions were after reviewing the four proposals?

3 A Memory serves me to say that I agreed with
4 the proposal to award the bid to the Raney group.

5 Q Do you recall what your general conclusions
6 were?

7 A I believe I said to the effect that it
8 would have the lowest net cost to the state.

9 Q Do you recall what separated that proposal
10 from the other proposals, how they were able to
11 achieve that?

12 A No. As I said earlier, I really don't
13 remember all those details.

14 Q Do you recall whether it involved the
15 ability to invest the revenues from the driver's
16 license fees over a longer period of time than the
17 other proposals?

18 A No. Understand something: You already
19 discussed something with me and so if I can get a
20 whole bunch of money now as opposed to later, I mean
21 all of those things are relevant in making a
22 decision, but exactly what the details are, that's

1 just too long ago.

2 Q I would love to go over all the figures
3 with you that we have before us, but I think that
4 would take too long and that's one of the limitations
5 of doing a phone deposition. I apologize for that.

6 MR. PORTNOY: Off the record.

7 (Discussion off the record.)

8 BY MR. O'CALLAGHAN:

9 Q Back on the record.

10 Mr. Myers, you stated you did a present
11 value calculation on the different proposals.

12 A I believe that's correct.

13 Q Were there other options available,
14 different means of analysis that you could have
15 incorporated or was that a standard used?

16 A I believe that would be a standard that I
17 would use.

18 Q Are you aware, were there any other ways it
19 could have been analyzed?

20 A Well, I suppose so.

21 Q I'm just trying to get a feel for what
22 other types of analysis could have been conducted

26

1 comparing the four proposals other than doing --
2 was it net present value calculation; is that right?

3 A Yes.

4 Q And if you're familiar with any of the
5 other types of analyses that could have been
6 conducted in order to compare the four proposals.

7 A Well, I'm afraid that being an actuary kind
8 of leads you down a road, and kind of the standard
9 way that we do things is put everything in a present
10 value context.

11 Q Had you ever done any analysis of
12 underwriting proposals before?

13 A No.

14 Q Have you done any since?

15 A No.

16 Q Had you any experience with municipal bond
17 offerings?

18 A Other than as a purchaser and having sold
19 municipal bond packages, no other involvement.

20 Q Did you have any contact with any of the
21 people who had submitted the bids or proposals from
22 any of the underwriting firms?

1 A Not until I went to the legislative
2 advisory committee meeting.

3 Q Was this after you had provided Mr. Mitchum
4 with your analysis?

5 A Yes.

6 Q Who did you meet there?

7 A There was somebody from Missouri, I want to
8 say Clayton, and I suspect there was somebody there
9 from Stephens. The guy from Clayton is the only one
10 that comes to mind and I think the name of the firm
11 is Clayton, but it seems to me there was somebody
12 from up in Missouri, Clayton, Missouri.

13 Q Was his name Hertenstein?

14 A I don't remember.

15 Q Does the name Neil Hertenstein mean
16 anything, of Clayton Brown?

17 A No. I said to you Clayton, so that would
18 be the Clayton Brown. If this guy Hertenstein, if
19 I've said that correctly, was their representative,
20 then it's most likely him, but I can't be certain.

21 Q Do you recall any discussions you had with
22 any of the underwriters?

1 A The guy from Clayton questioned my
2 calculations and so I don't know whether he had had a
3 copy of what I had produced or not. But if memory
4 serves me right, it was the kind of conversation that
5 you would have with someone who just lost the bid
6 rather than --

7 Q Did you defend the numbers that you had
8 produced with him?

9 A We had a brief discussion. And I've got to
10 say that it couldn't have lasted any more than three
11 or four minutes, and then either the meeting started
12 or -- I've got to try to visualize that as to what
13 went on.

14 It seems to me that we had a discussion,
15 prior to the meeting starting, about the results and
16 he was defending his position. And I don't think it
17 lasted any more than three, four, five minutes, and
18 then I guess the meeting started.

19 Q Did you discuss his analysis with him?

20 A We discussed his position and my position.
21 You know, he said well -- I don't know, maybe I'm
22 putting words into it, but it seems to me in the

1 course of that short period of time, that he did it
2 this way and I did it that way.

3 Q Did you ever come to an agreement on
4 whether one person's numbers were better than the
5 other's?

6 A I don't think so. I mean, I don't think I
7 changed my position at that point.

8 Q Do you remember whether he made any claims
9 at that time that the total cost of his firm's plan
10 was \$1.7 million less than the Raney Hutton Lasater
11 plan?

12 A He could have.

13 Q But you don't remember that?

14 A No.

15 Q During the time period 1984 through 1985,
16 did you know anyone at Lasater & Company?

17 A No.

18 Q During the time you were working on this
19 analysis, did you ever have any conversations with
20 anyone in the governor's office?

21 A No.

22 Q Did you have any discussions with a

30

1 gentleman by the name of Ed Erxleben?

2 A Say that name again.

3 Q Any discussions with a gentleman by the
4 name of Ed or Edward Erxleben, E-r-x-l-e-b-e-n?

5 A The name sounds vaguely familiar, but you'd
6 have to give me more details.

7 Q I believe Mr. Erxleben at the time was one
8 of the members of the commission, who was working on
9 it.

10 MR. FEUER: He was the purchasing --

11 BY MR. O'CALLAGHAN:

12 Q I'm sorry, he was -- was he Department of
13 Finance? I'm sorry, he's a member of the Department
14 of Finance and Administration.

15 A Oh, okay, okay. I don't believe so.

16 Q Okay. Did you attend any of the state
17 police commission meetings on this subject?

18 A No.

19 Q You just attended the legislative meeting?

20 A That's correct.

21 Q Do you remember whether there was an
22 argument made that the legislature and the commission

1 should accept the proposal that had the best concept
2 of format rather than the costs outlined?

3 A I don't remember.

4 Q Do you remember whether that was part of a
5 recommendation that you made?

6 A I don't remember all the details of this
7 situation.

8 Q Do you recall generally whether you found
9 that the Hutton Raney Lasater proposal had a better
10 concept but appeared to be more expensive with the
11 numbers that were provided?

12 A The only thing I can tell you is that
13 memory says that I concurred it was the best bid, and
14 without looking at any of the material that I
15 produced, I can't give you any specifics.

16 Q Do you recall how quick the turnaround was
17 between the time you were given the task and the time
18 that you produced your analysis? Was it within the
19 same day, a couple of days?

20 A Probably within a week's time.

21 Q Did you get paid for preparing this
22 analysis?

1 A Yes.

2 Q And who were you paid by?

3 A I believe I was paid by Johnny Mitchum.

4 Q Why do you believe you were paid by him?

5 A Well, I don't think there was anybody else
6 involved. I could have been paid by somebody else
7 but, you know, in the absence of any records on it,
8 I'm not certain.

9 Q Do you recall whether you were paid by
10 Lasater & Company? Do you have any recollection of
11 receiving a check from them or any money from them?

12 A I don't think so. It's kind of strange,
13 when I was called yesterday, my memory only said
14 Raney and Hutton, and I guess from what you've told
15 me and from what was said yesterday, is that Lasater
16 was on that bid et al., was on that also, but I
17 seriously doubt whether I was paid by Lasater.

18 Q But you could have been?

19 A It's possible, but I really don't think
20 so. I think it came from Johnny. It was either --

21 Q Were you paid by the police department?

22 A I don't believe so. I think I was paid

1 by -- I think I was paid by Johnny. But whether I
2 was paid by the police department or not, I don't
3 have any recollection to that.

4 Q Do you recall how much you got paid for the
5 service?

6 A Not enough. Seemed to me it was \$500 or
7 \$1000, something like that.

8 Q Did you charge a lump sum or did you charge
9 an hourly rate, if you remember?

10 A I don't recollect.

11 Q Do you recall if it was closer to 500 or
12 closer to 1000?

13 A I can't give you a hard number on that.

14 Q Did you have any discussions with any of
15 the commissioners, any of the police commissioners
16 other than Mr. Mitchum?

17 A I believe the only discussion that I might
18 have had is -- it was the first time that I met
19 Winthrop Paul Rockefeller -- was at the legislative
20 meeting. And if I discussed it with anybody or
21 anything about that, I could have had a small
22 conversation with him. But whether it was of

34

1 substance or not, I don't remember. It was the first
2 time I met him and that's why it sticks out in my
3 mind.

4 Q Do you recall comparing the different rates
5 that were being offered by the four different
6 proposals?

7 A No, I really can't give you any details
8 about what was in their proposals today.

9 Q I'm going to read a small portion of
10 minutes of the communications study committee of
11 legislature dated May 16, 1985. It's a two-page
12 document, DKS 027209 and 027210. I'm going to read
13 it to you and this may help refresh your recollection
14 or it may not. I'll ask you when I'm finished. It
15 reads "Representative George asked what rate they
16 were talking about."

17 MR. PORTNOY: Before you read it, could you
18 clarify whether the minutes reflect the witness's
19 attendance at the meeting or not.

20 MR. O'CALLAGHAN: Sure. Would you like to
21 comment on that?

22 MR. PORTNOY: No, I just don't have them.

1 MR. O'CALLAGHAN: I don't see it listed. I
2 hadn't intended to indicate that he had been there,
3 Jim.

4 MR. PORTNOY: Off the record.
5 (Discussion off the record.)

6 THE WITNESS: Are you talking whether I was
7 at the legislative advisory committee meeting?

8 BY MR. O'CALLAGHAN:

9 Q Just so I'm clear, I'm referring to the
10 communications study committee that looked at the
11 proposal to put the system in place, and I'm -- I
12 don't believe -- the minutes don't reflect that you
13 were there.

14 A At which meeting?

15 Q Of the communications study committee of
16 the legislature, which was on May 16. And then I
17 believe the committee met -- rather the entire
18 legislative council met the next day to vote on the
19 issue of the contract on May 17, which was a Friday.
20 And I think that --

21 A I think I was at the second meeting and not
22 the first meeting.

1 Q Okay. Whether or not you were there, this
2 may help refresh your recollection as to what
3 considerations may or may not have been given to the
4 rates offered by the different proposals. Actually,
5 I believe the only reference made to you is on the
6 bottom of the first page, which reads "Commissioner
7 Mitchum said that the proposal involved \$23 million
8 and that the commission had hired an independent
9 actuary to look at the proposal."

10 The portion I wanted to read to you reads
11 "Representative George asked what rate they were
12 talking about. Mr. Mitchum said it would be less
13 than 5 percent because of positive arbitrage and
14 Senator Nelson asked if that was a firm rate.
15 Mr. Mitchum said no, the rate would be established on
16 the date of the offering. First Capital Corp. did
17 offer a flat rate of 7.75 percent."

18 Does that refresh your recollection as to
19 whether any consideration was given to the rates or
20 if so, what that was?

21 A I don't remember.

22 Q So you don't recall whether or not the

1 rates being offered were an important part of your
2 calculation?

3 A I'm sorry, I just don't remember details,
4 specific details about any of the calculations or
5 other values. If you keep talking to me about all of
6 these things, maybe some of this stuff is going to
7 click and come into my mind, but without any specific
8 documentation in front of me, it's just a long time
9 ago.

10 Q So do you remember having any discussions
11 about one proposal having a greater ability to do
12 arbitrage than the other proposals or giving the
13 agency the greater ability to arbitrage money
14 dedicated?

15 A I just don't remember.

16 Q Would that have been something you
17 considered looking at it now, if that was something
18 that you were aware of?

19 A I don't know. I mean, arbitrage and all of
20 those items are all financial items which would go
21 into some sort of a calculation. I just don't know
22 without all the specific detailed stuff in front of

1 me as to what I would do today or, you know, what I
2 should have done 10 years ago in hindsight. I just
3 don't know.

4 Q Did anyone work on preparing this analysis
5 with you?

6 A No.

7 Q Were you working by yourself during this
8 time period?

9 A Yes.

10 Q Just so we're clear, did Mr. Mitchum
11 explain to you how it had come that the commission
12 had already made a decision whether it was a formal
13 vote or whether it was just an agreement among the
14 commissioners, or how that came about?

15 A I don't know.

16 Q Just to be more specific, do you know if he
17 came to you before or after the commission voted to
18 go with the Lasater Hutton proposal?

19 A I think Johnny came to me after the winning
20 bidder had already been determined.

21 Q Some of the spreadsheets that I identified
22 to you earlier had dates of May 9, 1985; is that

1 consistent with your recollection? I know it was a
2 while ago.

3 A I guess so.

4 MR. PORTNOY: His recollection of when he
5 prepared them?

6 MR. O'CALLAGHAN: Yes.

7 THE WITNESS: I have to rely upon you for
8 these dates because there's been 15 tax law changes
9 since then.

10 BY MR. O'CALLAGHAN:

11 Q Okay. And you said you attended a meeting
12 of the legislature when they looked at this issue?

13 A Yes, it was a legislative advisory
14 committee meeting, and I believe it was the full
15 committee. There must have been 30 or 40 people
16 sitting around the table.

17 Q In the minutes of the meeting of the
18 Arkansas legislative council Friday, May 17, 1985,
19 Bates stamps DKS 027211 through DKS 027222, there's
20 a portion on page 27214 which again identifies that
21 the Raney Hutton Lasater proposal proposed annual and
22 semiannual payments. Then it goes "one of the other

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1 differences between a lease proposal bond proposal is
2 First Capital proposed fixed rates which would be
3 fixed for the entire term."

4 Do you recall being there for those
5 discussions?

6 A I was there for that meeting and so
7 whatever was discussed at that meeting I would have
8 been -- I would have heard.

9 Q Okay. I'll just read one more thing and if
10 you have a recollection of it, great, if not just let
11 me know. Second paragraph on that page reads "In
12 concluding, Mr. Hertenstein stated that the point he
13 wanted to make is that the proposal by First Capital
14 contains the least risk to the state and is, by the
15 analysis done by Mr. Myers, the lower cost proposal
16 to the state on the basis of total net cost and net
17 present value of that cost."

18 Do you recall him making those statements?

19 A No.

20 Q Is that something you would have taken
21 notice of?

22 MR. PORTNOY: The witness has testified

1 that he doesn't recall the statement.

2 THE WITNESS: I can't give you any accurate
3 details of what went on that day. I mean, that's
4 almost 11 years ago, and --

5 BY MR. O'CALLAGHAN:

6 Q I'm just trying to --

7 A Without having a file or other information
8 in front of me that would help jog my memory of what
9 went on, I don't know and -- the room was set up that
10 I was sitting behind like a small portable wall, and
11 so a lot of the conversation and who was speaking in
12 that I couldn't see. So whether it was the man from
13 Clayton, whoever it is, or somebody else commenting,
14 I just can't give you any specific details about what
15 went on at that. And if you've got a transcript of
16 that, that's probably accurate of what obviously went
17 on.

18 Q Do you have any knowledge of whether there
19 were any statements made by Governor Clinton to
20 anyone at Lasater & Company that before the project
21 was financed, that Lasater & Company would be one of
22 the underwriters for the police state bond

1 underwriting?

2 A No.

3 Q Have you heard whether anyone ever
4 attempted to provide anyone in the governor's office
5 with money or compensation in exchange for becoming
6 an underwriter of the police state bond underwriting?

7 A No.

8 Q Other than what I've represented to you,
9 which were Mr. Hertenstein's comments and comments
10 about your analysis, did anyone else question the
11 results of your analysis during this time period?

12 A I believe that either Jack or Wood Stephens
13 appeared and spoke, and since they weren't the
14 winning bidder, memory says they spoke in
15 opposition. But again, that's just fuzzy, just
16 fuzzy. I can't give you any specifics.

17 MR. FEUER: Was that at the legislative
18 advisory committee meeting?

19 THE WITNESS: Yes.

20 BY MR. O'CALLAGHAN:

21 Q Anyone else you know that disagreed with
22 your results or took issue with them?

1 A I don't remember anybody else.
2 Q Do you recall what the basis of their
3 disagreement was?
4 A No.
5 Q Other than the proposals which were
6 produced by the different underwriters, did you use
7 any other materials when putting together your
8 analysis of the different proposals?
9 A I'm not certain.
10 Q Are you familiar with anyone by the name of
11 Michael Drake?
12 A I don't think so.
13 Q That name doesn't ring a bell?
14 A No.
15 MR. O'CALLAGHAN: I have no further
16 questions at this time, Mr. Myers. And the way this
17 usually works is I start off with the questions and
18 then the Minority will probably ask a series of
19 questions. And if I feel there's some outstanding
20 issues I'll come back again, and the same, so on and
21 so on until the record is clear. So at this point I
22 would like to hand it over to Mr. Feuer. Thank you.

1 EXAMINATION

2 BY MR. FEUER:

3 Q Mr. Myers, let me introduce myself again.
4 My name is Mitchell Feuer, and for the purposes of
5 this deposition, I'm going to be asking you questions
6 on behalf of the Minority members of the Senate
7 Special Committee on Whitewater.

8 The questions that I'm going to ask you are
9 going to cover the same areas as the questions that
10 Mr. O'Callaghan asked, and I apologize for the
11 repetitive nature of some of this. I will try to go
12 through this as quickly as possible.

13 As before, if you don't hear my question or
14 you don't understand my question, if I'm not clear,
15 please say so and I will repeat it or I will try to
16 rephrase it so that we understand each other. And if
17 you want to take a break at any point for any reason,
18 just let me know and we'll accommodate that.

19 A Okay.

20 Q Before your questioning during the
21 deposition today, did you recall that Lasater &
22 Company was one of the underwriters on the winning

1 bid for the police radio bonds?

2 A No.

3 Q You did recall that the Raney firm and the
4 Hutton firm were participants in that underwriting;
5 is that correct?

6 A Yes.

7 Q Would it be fair for me to conclude from
8 the fact that you didn't recall that Lasater was a
9 participant in the bond underwriting, that Lasater's
10 role in the underwriting was not something that you
11 considered important at the time, that is in May of
12 1985?

13 A I can't say as to exactly what I was
14 thinking back in 1985, but when I tried to recollect
15 it, I was surprised yesterday when Mr. Brenner said
16 it involved Lasater. I'm more familiar with the
17 Raney firm, and the Hutton firm was in the same
18 office building that I was at, so I think it's just a
19 closeness to the two parties that submerged Lasater
20 in this.

21 Q Were you familiar with Mr. Mitchum through
22 the purchase of the hospital that you described?

1 A Yes. Mr. Mitchum was the owner of a small
2 community hospital that had a defined benefit plan.
3 He was a man who had to sign all the forms and papers
4 and get the checks issued, so anything that I did, I
5 was hired by him and did that job to terminate that
6 retirement plan.

7 Q Had you met Mr. Mitchum in connection with
8 that?

9 A I'm sorry, I didn't hear that.

10 Q Had you met Mr. Mitchum in connection with
11 that hospital transaction?

12 A How did I meet him?

13 Q No. Had you met him in connection with the
14 hospital transaction?

15 A Yes, I think I was referred to Johnny by
16 another attorney in town, and that's how I met him.
17 Prior to that point, I had never met him.

18 Q So you met him for the first time in 1984?

19 A I think that would be about the right time.

20 Q What did Mr. Mitchum say about the three or
21 four proposals when he provided those proposals to
22 you?

1 A I was asked to analyze those proposals and
2 come up with what I felt was the best proposal. I
3 can't give you anymore specifics than that. I just
4 don't remember.

5 Q Was it your impression that Mr. Mitchum
6 wanted you to do a fair analysis of the proposals?

7 A Yes.

8 Q Was it your impression that he wanted you
9 to do an objective analysis of the proposals?

10 A Yes.

11 Q Did he tell you that?

12 A Pardon me?

13 Q Did he tell you that? Did he tell you that
14 he wanted you to analyze the proposals fairly and
15 objectively?

16 A Well, I think that's the only way I would
17 have done it, so I can't imagine that Johnny would
18 ask me to do something unethical.

19 Q Did Mr. Mitchum say that he had a
20 preference for how he wanted your analysis to turn
21 out?

22 A I don't remember specifically. I mean, he

1 asked me to look at it and come up with some numbers
2 as to what my opinion was the best proposal.

3 Q Did anybody else indicate to you that they
4 had a preference for how your analysis would come
5 out?

6 A No. I believe the only person that I dealt
7 with was Johnny.

8 Q When Mr. Mitchum gave you the proposals,
9 did you have the impression that he had already
10 reviewed them?

11 A I mean, I assume so, since the commission
12 had already selected the winner.

13 Q How did you come to the conclusion that the
14 commission had already selected an underwriter?

15 A I believe that that's what I was told. I
16 was being asked to review and see whether I came to
17 the same conclusion, for either the same or a
18 different reason. I think that's what I was retained
19 to do.

20 Q Did you evaluate the proposals using a
21 present value calculation method?

22 A I believe so.

1 Q Did you do that fairly and objectively?

2 A Did I do it fairly and objectively? Is

3 that the question?

4 Q That's my question.

5 A I believe so.

6 Q What was the result of that calculation?

7 A I think I came to the conclusion that the
8 successful bidder was the -- the winning bidder was
9 in fact the best arrangement.

10 Q Did you conclude that the Raney Hutton
11 Lasater proposal would allow the state of Arkansas to
12 finance the acquisition of the new police radio
13 system more cheaply than would the other proposals?

14 A I believe that was the conclusion.

15 Q Did all four proposals involve a series of
16 interest and principal payments over a period of
17 time, stretching out into the future?

18 A I believe so.

19 Q And did all four proposals also allow the
20 state of Arkansas to earn interest through arbitrage,
21 that is through interest on the funds before they
22 were expended?

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1 A I'm not certain whether all four did or
2 not.

3 Q And would a present value calculation try
4 to determine the cost today of those future interest
5 and principal payments and earnings through
6 arbitrage?

7 A I suspect so. I'm sorry, I can't give you
8 more details about this, but I just don't have
9 anything to jog my memory as to what I did or what I
10 didn't do that long ago.

11 Q Mr. Myers, did the four underwriting teams
12 make presentations to the state police commission,
13 oral presentations to the state police commission?

14 A I don't know.

15 Q Mr. Myers, did Mr. Mitchum indicate to you
16 at the time that he provided you with the four
17 proposals that his personal view was that the Raney
18 Hutton Lasater proposal was the cheapest to the state
19 of Arkansas, but that the full state police
20 commission had not yet selected an underwriter?

21 A I believe that the decision had been made
22 to award the contract to the Raney Hutton Lasater

1 group at the time I first became involved, so whether
2 Johnny was a Majority or Minority person who voted on
3 that, I don't know. All that I was asked to do was
4 to see whether I come up with the same conclusions,
5 come up with a conclusion, which I did.

6 Q Mr. Myers, if I tell you that the minutes
7 of the Arkansas state police commission meeting at
8 which the underwriting contract was awarded to the
9 Raney Hutton Lasater group is dated May 10, 1985 --

10 A Dated what day?

11 Q May 10, the 10th of May, and if I also tell
12 you that some of the documents that Mr. O'Callaghan
13 described for you earlier that evaluate the costs of
14 the four proposals are dated May 9, does that change
15 your recollection in any way as to whether the state
16 police commission had selected an underwriter at the
17 time Mr. Mitchum asked you to evaluate the four
18 proposals?

19 A I believe that the decision by the state
20 police commission to award the contract to the Raney
21 group had already been made. It's my recollection
22 that -- this is why I remember this, because it was

1 kind of strange because of advice and consent, is
2 that they had to go in front of the legislative
3 advisory committee to advise them of what their
4 action was going to be. And then -- but they did not
5 need their consent to do what they wanted to do, and
6 then it seems reasonable that subsequent to that,
7 they would have formally awarded the winner. I think
8 that's the process.

9 My memory says that there was a strange
10 quirk there that all they had to do was to advise
11 them and that the legislative committee did not have
12 veto power over their actions. And now that I think
13 about it, I think that was the discussion that I had
14 with Win Rockefeller. That's the best of my
15 recollection.

16 MR. FEUER: Mr. Myers, I have no more
17 questions at this time. I may have some more
18 questions if Mr. O'Callaghan has some more questions
19 for you that might lead me to ask you one or two
20 other things.

21 MR. O'CALLAGHAN: Mr. Myers, do you mind if
22 we take a quick break at this point? I don't think

1 we'll be much longer.

2 MR. FEUER: No, I think we won't.

3 MR. O'CALLAGHAN: But I think counsel wants
4 to have a brief discussion and then we'll come back
5 when they're finished. If you want, we can call you
6 right back if you want to hang up.

7 THE WITNESS: Okay, sure. I'll just stay
8 here and wait for your call back?

9 MR. O'CALLAGHAN: That would be great.

10 THE WITNESS: Please don't make it long.
11 This has gone through my lunch hour.

12 MR. FEUER: No, I promise. We'll call you
13 back in two minutes.

14 (Recess.)

15 MR. O'CALLAGHAN: Before we went off the
16 record, Mr. Feuer said he was finished, but I think
17 he might have a couple of more questions for you. So
18 he's going to ask a couple more and I might have a
19 couple to follow if that's okay.

20 THE WITNESS: Okay.

21 BY MR. FEUER:

22 Q That's right. I apologize for the delay,

1 Mr. Myers. This is Mitchell Feuer again.

2 As you know, the committee took the
3 deposition of Mr. Mitchum last week.

4 A Of who?

5 Q Of Johnny Mitchum.

6 A Okay.

7 Q And we have a transcript of that
8 deposition, and I'm going to provide you two pieces
9 of information out of that transcript. And again,
10 this is something that we have and you don't have,
11 and I apologize if that seems unusual or unfair in
12 any way. But I'm going to provide you with these two
13 pieces of information out of Mr. Mitchum's deposition
14 and then ask you whether they change your
15 recollection or help you to recollect anything that
16 you didn't recall up to this point, and that's why
17 I'm doing this.

18 A Okay.

19 Q First at pages 57 through 60 in the
20 transcript of Mr. Mitchum's deposition, he was shown
21 the same documents that were described to you earlier
22 today, and those are the documents that bear the

1 Bates numbers DKS N 027364 through 27371, and also
2 DKS N 027168 through 27184. Mr. Mitchum was asked if
3 he recognized those --

4 MR. O'CALLAGHAN: Mitch, just so we're
5 clear, those are the documents that I described
6 earlier that have the numbers, with the number runs
7 for the different bid analyses.

8 THE WITNESS: Okay.

9 BY MR. FEUER:

10 Q And he was asked whether he had seen those
11 documents before, whether he was familiar with them,
12 and he identified at least part of them as the
13 analysis that you gave to him, that you performed at
14 his request.

15 A Okay.

16 Q And as I said earlier, at least some of
17 those pages are dated May 9. And the minutes of the
18 board meeting -- the minutes of the meeting of the
19 Arkansas state police commission at which the
20 commission voted to award the underwriting contract
21 to the Raney Hutton Lasater group are dated May 10.
22 And I'm going to read you just a few questions and

1 answers, questions that were posed to Mr. Mitchum and
2 answers that he gave, and this is beginning at page
3 138 of Mr. Mitchum's deposition.

4 MR. O'CALLAGHAN: Mitch, also, just for the
5 record, I meant to point this out earlier, but these
6 also appear to be printed out on a dot matrix
7 printer. Do you all agree with that?

8 MR. FEUER: I certainly agree that they
9 weren't printed out on a laser jet.

10 MR. O'CALLAGHAN: Okay, thanks.

11 MR. PORTNOY: Which again is consistent.

12 BY MR. FEUER:

13 Q At page 138 Mr. Mitchum was asked "You
14 testified earlier that you had concluded that the
15 Raney Hutton Lasater proposal was the least
16 expensive.

17 "Answer: Correct.

18 "Question: Had you reached that conclusion
19 before you retained Mr. Myers?

20 "Answer: Yes.

21 "Question: So you retained him to confirm
22 or corroborate your view?

1 "Answer: That's correct.

2 "Question: And in your estimation, did he
3 corroborate your view?

4 "Answer: Yes."

5 And my question, Mr. Myers, is this: Did
6 Mr. Mitchum express to you his personal view based on
7 his review of the four proposals that the Raney
8 Hutton Lasater proposal was the cheapest proposal to
9 the state of Arkansas, rather than the view of the
10 entire police commission or a decision of the entire
11 state police commission?

12 A I can't give you a specific answer to
13 that. I just don't recollect what transpired then.

14 Q Is it possible that Mr. Mitchum expressed
15 to you his personal view about the merits of the
16 proposals rather than a decision of the entire
17 commission?

18 A It's possible. It's also possible that he
19 could have said we're all in agreement. It's
20 speculation at this point.

21 MR. FEUER: Thank you, Mr. Myers.

22 EXAMINATION

1 BY MR. O'CALLAGHAN:

2 Q Mr. Myers, I appreciate your patience, and
3 I've got a couple more questions. I just want to
4 make sure the record is clear. We lawyers have a way
5 of muddying up transcripts sometimes. I just want to
6 make sure. On a number of occasions earlier today
7 you stated that your best recollection was that you
8 were told who the winner was for the bids on the
9 police radio underwriting where you began your
10 analysis; is that right?

11 A I believe that's correct, yes.

12 Q And Mr. Mitchum told you that?

13 A Must have been Johnny because I don't
14 recollect having any dealings with anybody else, any
15 conversations with anybody else until we got to the
16 legislative advisory committee meeting.

17 Q And he identified to you which firm had
18 been selected; is that right?

19 A I believe so.

20 Q And that was the Raney Hutton Lasater
21 group?

22 A I believe so.

1 MR. O'CALLAGHAN: I have no further
2 questions at this time. I think that's it.

3 MR. FEUER: We apologize for the delay,
4 Mr. Myers. Thank you very much.

5 THE WITNESS: Are we officially off the
6 record?

7 MR. O'CALLAGHAN: We are.

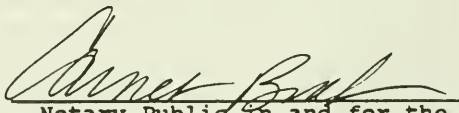
8 (Whereupon, at 2:45 p.m., the deposition
9 was concluded.)

10
11 -----
12 JOHN W. MYERS
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

**DEPOSITION OF MARCELLA J. TAYLOR
IN RE: S. RES. 120**

TUESDAY, FEBRUARY 20, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of MARCELLA J. TAYLOR, called
for examination pursuant to notice of deposition, at 10:15 a.m. in
Room 640-A of the Hart Senate Office Building, before PATRICIA
A. ZUBER, a Notary Public within and for the District of Colum-
bia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.
Majority Associate Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

SHERRY P. BARTLEY, Esq.
Mitchell, Williams, Selig, Gates & Woodyard
320 West Capitol Avenue
Suite 1000
Little Rock, Arkansas 72201
On behalf of the Deponent.

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P R O C E E D I N G S

MR. BARTOLOMUCCI: We're going to go on the record now.

Good morning, Ms. Taylor, Ms. Bartley. My name is Chris Bartolomucci. I'm an associate special counsel with the Majority staff of the Committee. Before we begin the questioning, there is some preliminary information I have to impart to you.

This is a deposition being conducted pursuant to Senate Resolution 120. That resolution establishes a special committee administered by the Banking Committee to conduct an investigation of Whitewater Development Corporation and certain other related matters including matters related to Madison Guaranty Savings & Loan.

This deposition is being conducted in advance of public hearings. Ms. Taylor, you may or may not be called to testify at hearings. No decision on that has been made at this time.

I'll be asking you questions under oath. Before we started we had a discussion about whether everyone agreed that you could be sworn in over the

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phone, and I'm correct, aren't I, that everyone here has agreed to swearing in over the telephone?

MS. BARTLEY: This is Sherry Bartley. That's correct.

MR. BARTOLOMUCCI: All right.

Ms. Taylor, if at any time you don't understand a question, just let me know and I'll try to rephrase it. And also let me know if you need a break, although I don't think this deposition will be a very long one. Our court reporter is going to prepare a record of questions and answers, and the deposition will be treated as committee confidential until the commencement of any hearings.

Prior to hearings, you'll get a chance to make corrections to your deposition, and if you are called to testify at a public hearing, you'll be given a copy have your deposition. Typically, that's done four days in advance of a hearing appearance. I note that you are represented by counsel today, as is your right.

Ms. Bartley, you just want to identify yourself for the record.

1 MS. BARTLEY: Yes. I'm Sherry Bartley,
2 S-h-e-r-r-y, B-a-r-t-l-e-y. I'm a partner with
3 Mitchell, Williams, Selig, Gates & Woodyard at 320
4 West Capitol Avenue, Suite 1000, Little Rock,
5 Arkansas 72201.

6 MR. BARTOLOMUCCI: Thank you. As
7 Ms. Bartley I'm sure knows by now, objections to the
8 forms of questions will be noted for the record, and
9 it's permissible to object to questions on grounds of
10 privilege or relevance.

11 The Committee Chairman, however, may rule
12 on objections if a witness refuses to answer a
13 question.

14 At this time I'm going to ask the court
15 reporter to swear you in, Ms. Taylor.
16 Whereupon,

17 MARCELLA J. TAYLOR
18 was called as a witness and, having first been duly
19 sworn, was examined and testified as follows:

20 EXAMINATION

21 BY MR. BARTOLOMUCCI:

22 Q You still there?

1 A Yes.

2 Q Okay. There was just some noise.

3 Ms. Taylor, would you go ahead and state
4 your full name and spell it for us.

5 A Yes. My name is Marcella JoAnne Taylor.
6 M-a-r-c-e-l-l-a, JoAnne, J-o, capital A-n-n-e,
7 Taylor, T-a-y-l-o-r.

8 Q Do you go by any abbreviated or nicknames?

9 A I go by the name of Marcy, M-a-r-c-y.

10 Q Okay. And other than Ms. Bartley, have you
11 spoken to anyone in anticipation of this deposition?

12 A No -- well, I mean, I told my husband that
13 I was being deposed, but not the subject matter of
14 it.

15 Q Right. You haven't discussed the
16 anticipated subject matter with anyone other than
17 Ms. Bartley?

18 A No.

19 Q Okay. Now, Ms. Taylor, you're currently a
20 partner in the law firm of Mitchell, Williams, Selig,
21 Gates & Woodyard?

22 A That's correct.

- 1 Q And when did you join the firm?
2 A July of '83, I believe.
3 Q Okay. Do you remember when you were made a
4 partner?
5 A No, it would have been five or six years
6 ago, maybe seven years ago.
7 Q Okay. So the late '80s or early '90s; is
8 that about right?
9 A Yeah.
10 Q And there was a time when the firm was
11 known as Mitchell, Williams, Selig & Tucker?
12 A Yes.
13 Q So that's the same law firm?
14 A Yes.
15 Q I think just for clarity I'll probably just
16 refer to it as the Mitchell, Williams firm to denote
17 its various incarnations over the years. Is that
18 okay?
19 A That's fine.
20 Q What were you doing before you joined the
21 firm in July of '83?
22 A I worked for the -- as a staff attorney for
-

- 1 the Arkansas Prosecutor Coordinators Office.
2 Q Okay. How long did you do that?
3 A I believe about 2-1/2 years. I worked
4 there my last year of law school and the year
5 following that.
6 Q So was that your first job out of law
7 school?
8 A Yes.
9 Q Okay. When did you graduate law school?
10 A '82.
11 Q And where did you attend law school?
12 A UALR, University of Arkansas at Little
13 Rock.
14 Q Thank you. And I assume you're a member of
15 the Arkansas Bar?
16 A Yes.
17 Q Do you remember litigating a case called
18 Madison Guaranty Savings & Loan Association versus
19 Dixie Continental Leasing, K&D Landscaping Company
20 and Charles J. Peacock, III?
21 A Yes.
22 Q And this was a case in the Chancery Court

1 of Saline County, Arkansas?

2 A Actually, I'm not sure if it was in Saline
3 County or if it was in Pulaski County.

4 Q Okay. But do you remember when you were
5 involved in this case?

6 A Barely. I vaguely remember it, yes.

7 Q Okay. What time period was that?

8 A Well, according to the letter that your
9 notice said you intended to refer to, it would have
10 been in the '87 time frame.

11 Q Okay. What do you remember about the
12 subject matter of the litigation?

13 A Very little. It was a -- you know, it was
14 just a standard foreclosure action.

15 Q And you and your law firm were representing
16 Madison Guaranty in that action; correct?

17 A Yes.

18 Q And you were seeking foreclosure on loans
19 made to the various defendants?

20 A It would have been -- I believe it was we
21 were seeking to foreclose on a loan made to Dixie
22 Continental.

10

1 Q Okay. And what was the involvement of
2 Charles Peacock in the lawsuit?

3 A I believe he may have guaranteed the loan
4 as well. I think he was Dixie Continental Leasing.

5 Q It was his company?

6 A Yeah.

7 Q Okay. Was there anyone else from your law
8 firm involved in handling the case?

9 A Yes.

10 Q Who would that have been?

11 A Lynn Pruitt.

12 Q Is she also an attorney?

13 A Yes.

14 Q In 1987, would she have been an associate
15 or a partner?

16 A She would have been an associate.

17 Q Okay. And I take it you were also an
18 associate in 1987; does that jive with your memory?

19 A I think so.

20 Q Okay. Was there a partner that you
21 reported to in connection with that suit?

22 A No, not that I recall.

- 1 Q Okay. Were you the principal attorney
2 handling it?
3 A For a period of time.
4 Q Do you mean there came a time when someone
5 else took it over or responsibility shifted?
6 A Yes, there came a time when someone else
7 took it over.
8 Q Was that Ms. Pruitt?
9 A Yes.
10 Q Now, do you remember who represented
11 Peacock and Dixie Continental Leasing in that case?
12 A I believe Karen Queen, who was an associate
13 or a partner with Greg Hopkins.
14 Q That's she was with Greg Hopkins law firm?
15 A Yes.
16 Q Okay. I think at the time it was known as
17 Hopkins & Erwin. Does that square with your memory?
18 A I have no recollection of that.
19 Q Okay. But the case was being handled by
20 Karen Queen and she worked with Greg Hopkins?
21 A That's correct.
22 Q Now, was there anyone in particular at

- 1 Madison Guaranty that you dealt with in connection
2 with the Dixie Continental case?
3 A Well, I don't have any recollection of it.
4 You know, from the April 27th letter, it must have
5 been Pat Heritage, since that's who wrote me that
6 letter.
7 Q Okay. Who is Pat Heritage, to your
8 recollection?
9 A She was somebody at Madison.
10 Q And you're inferring from the April 27th
11 letter that she would have been someone that you
12 dealt with in connection with the Dixie Continental
13 case?
14 A Yes. But I have no direct recollection of
15 that. That's just from refreshing my memory from
16 looking at that letter.
17 Q I note that that letter, it doesn't have a
18 Bates number on it, unfortunately, so I can't
19 identify it any better than as an April 27th, 1987
20 letter from Pat Heritage to you. And she has
21 identified herself on the letter as a collections
22 officer?

1 A Yes, that's correct.

2 Q So then it's safe to assume that that's the
3 reason why she was involved in this case, because she
4 had some responsibility for collecting loans?

5 A I assume so.

6 Q Okay. Apart from the Dixie Continental
7 lawsuit, do you remember any other matters being
8 litigated at roughly the same time that involved
9 Madison Guaranty and Charles Peacock?

10 A No.

11 Q Do you have any memory of a bankruptcy
12 matter at about the same time that involved Charles
13 Peacock or any of his entities?

14 A No, I have no recollection from that time.

15 Q Okay. Well, I'm going to try to refresh
16 your recollection. I have a document dated September
17 25th, 1987. It was a document prepared by the
18 Mitchell, Williams firm. It's signed by John Selig,
19 and it's addressed to the examiner in charge of the
20 Federal Home Loan Bank of Dallas. And just to do
21 this quickly, it seeks to summarize various matters
22 that Mitchell, Williams is involved in which also

1 involve Madison Guaranty.

2 And it does -- first of all, it does
3 mention the Dixie Continental suit. It says -- this
4 is a quote. "On March 12th, 1987, a complaint was
5 filed on behalf of Madison against Continental
6 Leasing seeking a judgment in the amount of
7 \$330,293.32 plus interest cost and fees and
8 foreclosure of its rights to 32.2 acres, as described
9 in the mortgage taken as security for a note dated
10 April 4th, 1985."

11 Now, first of all, does that sound like an
12 accurate description of what the suit was about?

13 A Well, let me tell you, I have no memory of
14 the details of that suit. I mean, I know it was a
15 foreclosure action, which tells me there was property
16 involved. The amount of the loan, you know, I don't
17 know. Could be. I assume John, you know, gave an
18 accurate description.

19 Q Okay. This same document that I'm
20 referring to also describes a bankruptcy matter
21 involving the Peacock Brothers, Inc. And it says "A
22 chapter 11 bankruptcy petition was filed by the

1 debtor on September 18th, 1986. Madison has a
2 secured claim of approximately \$500,000 and an
3 unsecured claim of \$30,000."

4 It goes on to say "On February 27th, we
5 filed a motion to dismiss or to convert to chapter
6 7. Citizens Bank of Bald Knob, Bald Knob, Arkansas
7 also filed a motion to dismiss, and these motions
8 were both heard on April 8. The bankruptcy court,
9 after hearing from testimony from Charles Peacock,
10 III, dismissed the chapter 11 with prejudice."

11 Now, does that refresh your memory at all
12 about whether there was a bankruptcy matter involving
13 the Peacocks?

14 A No. I mean, let me tell you, I know now
15 that there was a bankruptcy. At the time I did not.
16 And so, you know, what you were reading to me refresh
17 is -- my current memory is that I now know there was
18 a bankruptcy. I do not recall having known that at
19 the time that I apparently was doing the Dixie
20 Continental foreclosure. I assume that you know
21 Mr. Selig's memo to the what you say the Home Loan
22 Bank Board is correct. But that was beyond my

16

1 knowledge at the time.

2 Q Okay. There are a few more suits I wanted
3 to just run by you quickly and see if you have any
4 memory of them. There are four cases. All of them,
5 according to this document, were filed on April 1st,
6 '87. The first one is called Madison Guaranty
7 versus Peacock Financial Corporation and Charles J.
8 Peacock, III filed in White County Chancery Court.
9 And it sought foreclosure on -- let's see, on a note
10 in the amount of \$50,000. Do you have any memory of
11 that suit?

12 A No.

13 Q So I take it you didn't handle the matter?

14 A No. At least not to my memory, I didn't.

15 Q There is a second one called Madison
16 Guaranty versus Ken Peacock, Charles J. Peacock, III
17 and Peacock Investment Company. These are in White
18 County Circuit Court and Saline County Chancery
19 Court, again filed April 1st, '87.

20 And the suit was seeking to collect notes
21 in the amounts of \$16,000, \$7051.06, And \$5124.81.
22 Do you have any memory of that lawsuit?

1 A No.

2 Q And you didn't handle it?

3 A Not to my knowledge.

4 Q The third one out of four is it called

5 Madison Guaranty versus Charles Peacock, III and Judy

6 Peacock. It's White County Circuit Court filed April

7 1st, '87, seeking to collect on three notes in the

8 amounts of \$15,000, \$6000 and \$50,000. Do you

9 remember anything about that case?

10 A No, I don't.

11 Q And you didn't handle it?

12 A Not to my knowledge.

13 Q Then the last one, the last suit reflected

14 in this document is in a case styled Madison Guaranty

15 versus Quality Hydraulics, Inc., Charles J. Peacock,

16 III and Dene Landrum. That's White County Circuit

17 Court, filed April 1st, '87 and the suit sought to

18 collect on a note in the amount of \$8500. So, same

19 questions. Do you remember that case?

20 A No.

21 Q And you didn't handle it?

22 A Not to my knowledge.

1 Q So your only -- of the cases we've
2 discussed today, you remember handling the Dixie
3 Continental suit, but none of the other ones?

4 A That's correct.

5 Q Okay. And just so you know, I don't have
6 anything to indicate that you did handle any of those
7 other cases, but since they all involved Madison and
8 the Peacocks and were roughly contemporaneous, I just
9 wanted to check.

10 But you did handle Dixie Continental
11 Leasing, that case?

12 A I handled a portion of that case, yes.

13 Q Is it safe to assume from the April 27th,
14 1987 letter that you were still handling the case as
15 of that time?

16 A I would think it would be safe to assume
17 that.

18 Q Okay. I'm going to ask you to remember
19 what you can about Charles Peacock's relationship
20 with Madison Guaranty.

21 A I have no knowledge of it, I mean other
22 than he was a borrower.

1 Q You didn't know in 1987 that he was -- had
2 been a director of Madison Guaranty at one time?

3 A I don't think I knew that then. Don't
4 think I know it now.

5 Q Okay. What do you remember about Greg
6 Hopkins's involvement in the Dixie Continental
7 Leasing case?

8 A Not much. I mean, I believe that all my
9 dealings were with Karen Queen or Quinn -- Queen.

10 Q I think it's Queen.

11 A Yes. I don't remember Greg being involved
12 in it other than, you know, that was a small law
13 firm, and Karen was associated with Greg.

14 Q I have a copy of a deposition that you
15 conducted in the Dixie Continental case. Took place
16 on April 15th, 1987. You were deposing Mr. Peacock.
17 Ms. Queen was defending the deposition and the
18 document also reflects that Pat Heritage was in
19 attendance.

20 A Yes.

21 Q Do you remember taking that deposition?

22 A Yes.

1 Q Do you remember Pat Heritage being there?

2 A I didn't until I read it.

3 Q So does the fact that Ms. Heritage was
4 apparently at the deposition refresh in any way your
5 memory about her role in the case?

6 A No more than the April letter does. And I
7 think that letter also reflects that she was at that
8 deposition.

9 Q I think it does. Okay. Moving to the
10 heart of the matter, do you have any memory of
11 learning in 1987 that Greg Hopkins had contacted or
12 called Pat Heritage?

13 A Well, I have no memory of that from '87.
14 As I read the April letter, she refers to a call from
15 Greg.

16 Q This is the part from the April '87 letter
17 where it says "Last week on the phone Greg Hopkins
18 said that some of this money was used to make a
19 campaign contribution to Governor Clinton."

20 A Yes.

21 Q That's the language you are referring to?

22 A Yes. And then she goes on to say "No one

1 here knows anything about it. It wasn't a check
2 written by Quapaw or Madison financial." That
3 paragraph.

4 Q Do you remember receiving this letter?

5 A I have no memory of receiving it.

6 Q Do you have any memory of learning about
7 this allegation made by Hopkins that money had been
8 diverted to the Clinton campaign?

9 A I have no '87 memory of it. I have a
10 memory of it from the other day when I had the letter
11 pulled out of the file.

12 Q Well, just as you sit here today, what do
13 you remember about that allegation?

14 A I have no memory of that allegation.

15 Q You don't remember whether -- let me strike
16 that.

17 Do you remember whether you talked to
18 anyone about that allegation?

19 A No.

20 Q You didn't call Pat Heritage, to your
21 memory, to inquire further about it?

22 A No.

1 Q Isn't that the kind of thing that you would
2 have found surprising or interesting?

3 A No.

4 Q Well, let's give this a little context.
5 You are litigating a case. You're seeking
6 foreclosure on a note. The opposing counsel has
7 contacted an employee of your client and alleged that
8 some of the loan money was diverted to the sitting
9 governor of the state. That wouldn't have piqued
10 your interest a little bit?

11 A No. I just had deposed the guy and given
12 him every chance to tell me what defenses he thought
13 he had.

14 Q Now, you hadn't -- you hadn't asked
15 anything about Bill Clinton in the deposition; right?

16 A Why would I have asked him anything about
17 Bill Clinton in the deposition?

18 Q I don't think there is any reason why you
19 would have, but this wouldn't have come as a surprise
20 to you, to hear allegations that some of the loan
21 proceeds had been diverted to the sitting governor?

22 A No. You know, I think if you'll read that

1 deposition you'll see that I asked him clearly to
2 give me all of the reasons in his mind why he
3 shouldn't have to repay this loan, and the reason
4 that I remember that deposition, among the several
5 foreclosure depositions that I had taken, was that he
6 looked at me and winked and said, I'm not going to
7 tell you any more, I'm going to surprise you at
8 trial.

9 And so we backed up and explained to
10 Mr. Peacock that that wasn't the way it was going to
11 happen, that he was going to state for the record
12 whatever defenses he had or Dixie Continental had
13 with regard to repayment of the loan, and you know,
14 he certainly made no allegations with regard to
15 Governor Clinton or any other valid reason.

16 I mean, I don't know whether you've ever
17 been involved in any foreclosure actions or talked
18 with debtors and their counsel, but they have lots of
19 different reasons including, gee, the bank should
20 have known I couldn't repay that money. So, you
21 know, you hear all sorts of allegations from debtors
22 and debtors's counsels in foreclosure actions for why

24

1 they ought not be responsible to take a loan. So
2 nothing that I heard with regard to reasons for no
3 repayment of a loan would have surprised me.

4 Q Well, when you got this letter from Pat
5 Heritage and it said that some of the loan money had
6 gone to Governor Clinton, you didn't stop and think,
7 I wonder if this is one of the surprises that Peacock
8 is going to spring at trial?

9 A No.

10 Q All right. Let's turn to the other
11 documents that I faxed to you this morning.

12 A Yes.

13 Q These are documents that have previously
14 been released by the House of Representatives. The
15 first one is a single page of handwritten notes and
16 it bears the identification fundraiser 17 on it. You
17 see the one I'm talking about?

18 A Yes, and that's not a notation I'm familiar
19 with. What is that?

20 Q That's just a label that the House of
21 Representatives put on it, the fundraiser 17
22 notation.

1 A And I assume they've added the notation at
2 the bottom that says "House"?

3 Q Yes, I think that's correct. I think
4 everything else comes from the original memo.

5 My first question is, do you recognize the
6 form, the basic form of this memo?

7 A Yeah, I recognize this as a form that we
8 used -- I use them to record telephone calls.

9 Q Okay. And I'll just tell you that these
10 are a series of notes taken by Lance Miller in a
11 conversation he had with Pat Heritage. This is Lance
12 Miller of your law firm?

13 A Yes.

14 Q Have you ever seen this document before
15 today?

16 A No.

17 Q Have you read it over?

18 A Yeah.

19 Q Do any of the things written in the memo
20 refresh your memory about a conversation Hopkins may
21 have had with Pat Heritage --

22 A No.

1 Q -- back in '87?

2 A No.

3 Q How about the second sentence? It says
4 Dixie loan went to Clinton campaign. Signed lease to
5 state, a lot of people going to prison.

6 You don't remember anything from 1987
7 that's related to the substance of that notation?

8 A No.

9 Q The first part says "Move underway to
10 disqualify based on Jim Guy Tucker or JGT."

11 A Yes, I see that.

12 Q Do you remember -- did you know -- let me
13 start again.

14 Do you have any memory in 1987 of an issue
15 arising about whether the firm would be -- your firm
16 would be disqualified from representing Madison
17 Guaranty?

18 A No.

19 Q All right. I'd like to turn your attention
20 to the other document.

21 A Yes.

22 Q It's a three-page memo, contains the

1 identifier fundraiser 18.

2 A Yes.

3 Q And it's a memo from Lance Miller to John
4 Selig.

5 A Selig.

6 Q Selig. Thank you. Dated April 23rd, '87.

7 A Yes.

8 Q Have you read that over?

9 A Yes.

10 Q Now, I think it's fair to say that this
11 memo summarizes what Pat Heritage told Mr. Miller
12 about a conversation that Ms. Heritage had with Greg
13 Hopkins.

14 Now, my first question is, have you ever
15 seen this document before today?

16 A Before today?

17 Q Uh-huh.

18 A Yes, I first saw this document in the fall
19 of '95.

20 Q Okay. What were the circumstances
21 surrounding your viewing of the document in the fall
22 of '95?

1 A Interview with the FBI.

2 Q All right. I'm not going to ask you any
3 more about that. Prior to that interview, you hadn't
4 seen it before?

5 A No.

6 Q Do you have any knowledge related to the
7 matters reflected in this memo?

8 A No, I don't.

9 Q Did you ever talk with Lance Miller about
10 the fact that Greg Hopkins had called and talked to
11 Pat Heritage?

12 A No.

13 Q Now, Mr. Miller, did he know that you were
14 handling the Dixie Continental Leasing case?

15 A I don't know whether Lance knew that or
16 not.

17 Q Well, let me direct your attention to the
18 second page of the document. It's the second full
19 paragraph. It says "In addition, Mr. Hopkins
20 informed Ms. Heritage that one of the loans made by
21 Madison to Dixie Continental Leasing upon which Marcy
22 Taylor has undertaken foreclosure proceedings also

1 involves fraudulent transactions."

2 A Well, I guess he did know.

3 Q Okay. But he never talked to you about
4 this conversation?

5 A Not that I recall. I have no memory that
6 Lance and I discussed it.

7 Q You don't remember Lance Miller coming to
8 you and saying, hey, Greg Hopkins, who is on the
9 other side in the Dixie case, has been making these
10 allegations including allegations about Bill Clinton
11 and that he said that people are going to jail? You
12 don't have any memory of him telling you something
13 like that?

14 A No.

15 Q All right. Let me ask you this. During
16 the course of the Dixie Continental case, would you
17 have considered Pat Heritage as a Madison employee to
18 be represented by your firm?

19 A I'm not sure I understand that question.

20 Q Well, Madison Guaranty, strictly speaking,
21 is your client in that action; correct?

22 A Yes.

1 Q And Pat Heritage is an employee of Madison
2 Guaranty?

3 A Correct.

4 Q All right. So my question really is this:
5 would you have seen any ethical problem with Greg
6 Hopkins contacting and talking to Pat Heritage?

7 A Any ethical problems. Probably.

8 Q I mean, you're aware, aren't you, of the
9 rule that forbids an attorney from contacting a
10 represented party?

11 A Yes.

12 Q And that rule would have been applicable in
13 1987?

14 A Yes.

15 Q So my question is, would you have
16 considered Ms. Heritage to have been within the scope
17 of your representation?

18 A Yes.

19 MR. PORTNOY: As a representative of
20 Madison, though, not in a personal capacity; is that
21 correct?

22 THE WITNESS: That's correct.

1 BY MR. BARTOLOMUCCI:

2 Q So you have no memory from 1987 of
3 thinking, hey, Greg Hopkins has contacted Pat
4 Heritage, who is an employee of my client, and that's
5 something he shouldn't have done?

6 A I have no memory of thinking that. I mean,
7 when that has happened to me in other cases, you
8 know, it sort of riled me, but you get on with it.

9 Q Directing your attention again to the
10 three-page Lance Miller memo.

11 A Yes.

12 Q Typewritten one.

13 A Yes.

14 Q Second full paragraph.

15 A What page?

16 Q Of the second page, I'm sorry.

17 A The one you were reading from prior?

18 Q Right. In fact, it's the next sentence,
19 which says "Mr. Hopkins stated that a portion of the
20 loan proceeds made to Dixie Continental Leasing went
21 to Bill Clinton's campaign and that in return for the
22 substantial campaign contribution, Bill Clinton

32

1 assured Jim McDougal that a state agency would lease
2 space from Madison at its headquarters on Main Street
3 in Little Rock." You see that passage?

4 A Yes.

5 Q Is it your testimony that in 1987 you don't
6 remember hearing anything about that?

7 A That's correct. I have no memory of
8 hearing that. Wasn't aware of that until fall of
9 '95.

10 Q Okay. Since the fall of '95, have you had
11 any discussions with Lance Miller about any of these
12 matters?

13 A No.

14 Q Have you had, since the fall of '95, any
15 discussions with Pat Heritage about these matters?

16 A No.

17 Q Since the fall of '95, have you had any
18 discussions with Greg Hopkins about these matters?

19 A No.

20 Q Since the fall of '95, have you had any
21 discussions with Karen Queen about these matters?

22 A No.

1 Q In fact, have you talked about the matters
2 contained within Miller's memo to anyone at the
3 Mitchell, Williams firm?

4 A Ms. Bartley.

5 Q Okay. Well, I'm not going to inquire about
6 that.

7 MR. BARTOLOMUCCI: I think that's all I
8 have for you at a time. Our normal procedure is to
9 let Mr. Portnoy go ahead and ask you some questions
10 if he has any.

11 EXAMINATION

12 BY MR. PORTNOY:

13 Q Good morning, Ms. Taylor.

14 A Good morning.

15 Q I have only one question for you. Do you
16 have any firsthand knowledge whatsoever about any of
17 the allegations contained in Mr. Miller's phone notes
18 from April 21st or his memorandum from April 23rd of
19 1985?

20 A No.

21 MR. PORTNOY: Thank you. That's all I
22 have.

1 MR. BARTOLOMUCCI: Okay. I don't have
2 anything further. So I just want to thank both of
3 you for participating in the deposition, and that's
4 it.

5 THE WITNESS: All right. Thank you.

6 (Whereupon, at 10:52 a.m., the deposition
7 was concluded.)

8

9

10 -----
11 MARCELLA J. TAYLOR

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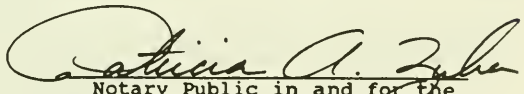
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

DEPONENT Marcella J. Taylor

ERRATA

[illegible]

**DEPOSITION OF BOBBY J. NASH
IN RE: S. RES. 120**

WEDNESDAY, FEBRUARY 21, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of BOBBY J. NASH, called for examination pursuant to notice of deposition, at 10:45 a.m. in Room 640-A of the Hart Senate Office Building, before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.

Majority Associate Special Counsel

DOUGLAS R. NAPPI, Esq.

Majority Counsel

JAMES S. PORTNOY, Esq.

Minority Associate Special Counsel

MITCHELL FEUER, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

RICHARD A. SIMPSON, Esq.

Ross, Dixon & Masback, L.L.P.

601 Pennsylvania, Avenue, NW

Washington, DC 20004-2688

On behalf of the Deponent.

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P R O C E E D I N G S

MR. O'CALLAGHAN: Good morning, Mr. Nash.

My name is Michael O'Callaghan. I am associate special counsel for the Majority on the Special Committee. To my left are Mitchell Feuer and Jim Portnoy, who are counsel for the Minority.

This deposition is being conducted pursuant to Senate Resolution 120. The Resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., the Arkansas Development Finance Authority and other related matters.

This deposition is in advance of public hearings which will likely occur later this month. In the event the Committee gets an extension, there may be hearings sometime in the future past that.

We will be asking you a series of questions today and ask you to testify under oath. If you don't understand a question, let me know or either Minority counsel and we will be happy to rephrase the

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question. Hopefully we will be able to understand each other.

Also if you need a break at any time, let me know, let any of us know, and we will be happy to accommodate you in that respect as well. The stenographer is preparing a record of questions and answers. The deposition will be treated as committee confidential until the commencement of public hearings.

Prior to hearings, you will be given a chance to review your transcript and provided with an errata sheet to make any corrections on that sheet, note any corrections and we also will give you a chance to review your deposition prior to the hearings in the event you are called to testify.

You may be represented by counsel today. Are you represented by counsel?

THE WITNESS: I am.

MR. O'CALLAGHAN: State your name and the name of your firm for the record.

MR. SIMPSON: Richard Simpson of Ross, Dixon & Masback, LLP on behalf of the witness.

1 MR. O'CALLAGHAN: Thank you. Objections
2 to the form of questions will be noted for the
3 record. Counsel may object on grounds of privilege
4 or relevance. The Committee Chairman may rule on
5 objections where the witness refuses to answer a
6 question.

7 Please swear in the witness.
8 Whereupon,

9 BOBBY J. NASH
10 was called as a witness and, having first been duly
11 sworn, was examined and testified as follows:

12 EXAMINATION

13 BY MR. O'CALLAGHAN:

14 Q Please state and spell your full name for
15 the record.

16 A Bobby Joe Nash, B-o-b-b-y, J-o-e, N-a-s-h.

17 Q I know you have given previous testimony
18 before the Committee.

19 A Yes, I have.

20 Q Is that right?

21 A I have.

22 Q Just for the purpose of this deposition, so

1 the record is clear, I may repeat some questions you
2 have been asked earlier. I think for the purposes of
3 clarity and readability, there may be some
4 repetition. I hope you will indulge me.

5 MR. O'CALLAGHAN: If you have any problems,
6 Counsel, let me know.

7 BY MR. O'CALLAGHAN:

8 Q Give me a brief sketch of your employment
9 history between January 1982 and October of 1986.

10 A January of '82 until October of '86?

11 Q Say through December of '86, yes. January
12 through December.

13 A Okay. January, I believe around January, I
14 went to work as senior executive assistant for
15 economic development for the Governor of the state of
16 Arkansas. I served -- I was the Governor's senior
17 policy adviser on economic issues from that time
18 until about January of 1989.

19 That's an estimate. It could have been
20 December of '88 or it could have been February of
21 '89, but about that period of time I served in that
22 role.

1 Q Was that for Governor Clinton?

2 A Yes.

3 Q What did you do previous to your
4 appointment as senior executive assistant for
5 economic development?

6 A Previous to that, I was vice president of
7 the Winthrop Rockefeller Foundation in Little Rock,
8 Arkansas for approximately seven years, where my work
9 concentrated on economic development in low-income
10 communities around the state of Arkansas.

11 Q Did you have any -- did you participate in
12 Governor Clinton's campaign for governor previous to
13 becoming senior executive assistant?

14 MR. SIMPSON: Any particular campaign?

15 MR. O'CALLAGHAN: The gubernatorial
16 campaign preceding 1982.

17 THE WITNESS: Preceding 1982, there was a
18 campaign in 19 -- let's see. He took office in
19 January -- if I said '82 -- I went to work for him in
20 January '83. It is '83, not '82. It was January of
21 '83.

22 BY MR. O'CALLAGHAN:

1 Q That would be the campaign of 1981 and
2 '82.

3 A His gubernatorial campaign of 1982 for the
4 taking office in January of '93, I participated in
5 that campaign.

6 Q What was the level of your participation?

7 A I basically spoke to groups all around the
8 state about what the Governor planned to do as it
9 relates to economic development, civic groups, social
10 groups, church groups, chamber groups, anybody that
11 would listen. Basically, I was a speechmaker.

12 Q Were you a full-time employee of the
13 campaign?

14 A No.

15 Q You were a volunteer?

16 A I was a volunteer in the campaign.

17 Q How much time would you say you devoted to
18 the campaign?

19 A I devoted -- at the time I was working for
20 the Rockefeller Foundation. I would spend probably
21 five nights a week, probably, and then probably every
22 weekend, Saturdays and Sundays, through the majority

1 of whenever the campaign period was. I can't
2 remember. It may have been a year.

3 Q You said you made speeches on behalf of the
4 campaign with regard to issues involving economic
5 development. During the time you were working at
6 night, five nights a week and on the weekends, was
7 that preparing for speeches or were you involved in
8 any other kind of activity?

9 A No. That was what I did. I was not
10 involved in other activities. That's primarily what
11 I did. I could have attended a rally or I may have
12 done a phone bank, but infrequently. Speaking was
13 basically what I did.

14 Q I take it a portion of the time that you
15 spent working on the campaign was preparing for the
16 speeches, is that right, writing the speeches?

17 A Yes, some. I mean -- I knew the subject
18 matter pretty well. But some time, yes.

19 Q After January '89, you ceased being senior
20 executive assistant; is that right?

21 A That's about the time, in around that time,
22 January, February of '89. And then I went to work as

10

1 president of the Arkansas Development Finance
2 Authority.

3 Q How long were you in that position?

4 A I was in there until about November or
5 December of 1992.

6 Q During your time as senior executive
7 assistant for economic development, could you give me
8 a better idea exactly what your responsibilities were
9 and what type of work you did in that capacity.

10 A Generically my job was to develop new
11 policies and new programs that fostered economic
12 development in the state, the creation of jobs, the
13 recruitment of new businesses and the growth of
14 existing businesses and the creation of employment
15 for people who were underemployed or unemployed.

16 Q Did you have oversight over any particular
17 agencies or one agency you interacted more with than
18 any others?

19 MR. SIMPSON: At any particular time?

20 MR. O'CALLAGHAN: Why don't we stick with
21 the period January '82 through end of '86.

22 THE WITNESS: January '82 to '86?

1 MR. SIMPSON: January '83?

2 BY MR. O'CALLAGHAN:

3 Q January '83 to December '86.

4 A To December '86. I don't know how to -- my
5 duties, basically, were the same between January of
6 '93 and --

7 Q '83.

8 A -- between January of '83 and December --
9 I'm sorry -- January of '89. So, your question was
10 did I have any responsibility for?

11 Q Were there specific agencies that you had
12 oversight for?

13 A There is a term called liaison, and there
14 were several agencies that I had liaison for. Let me
15 see if I can remember. The Arkansas Employment
16 Security Division, the Arkansas Industrial
17 Development Commission, the Arkansas Development
18 Finance Authority, the Arkansas Department of Labor,
19 the Arkansas Capital Corporation.

20 There could have been others, but those
21 were the main ones that I remember that I was the
22 liaison for. There could have been some other small

12

1 ones, but I can't remember.

2 Q You mentioned that you had oversight over
3 the Arkansas Development Finance Authority.

4 A I had liaison responsibility.

5 Q Did you also play a liaison role with the
6 Arkansas Housing Development Agency, the predecessor
7 to the Arkansas Development Finance Authority?

8 A Yes, I did. In fact, I guess I used those
9 interchangeably. In 1983, the agency -- the Arkansas
10 Development Finance Authority was in fact at that
11 time the Arkansas Housing Development Agency.

12 Sometime in the mid-'80s, the agency
13 changed names because its authority was expanded to
14 finance other kinds of economic development, which is
15 why the name changed. So, I continued to have
16 responsibility for the agency with the name change,
17 liaison responsibility, specifically.

18 Q Did you have general responsibility for
19 issues that involved financing economic development
20 in the Governor's office?

21 A I'm not sure I understand your question.
22 One more time.

1 Q With respect to finding ways to create
2 financing for economic development in the state, to
3 the extent that the state was involved in financing
4 different projects, economic development projects,
5 was that an area that you had responsibility for?

6 A From a policy standpoint, yes. For an
7 example, we were concerned about new ways to finance
8 small business development, which is why the Arkansas
9 Capital Corporation was created.

10 So, I would be involved in the research on
11 what other states were doing and working with
12 drafters of legislation, working with legislators to
13 try to get it passed, and after it was passed,
14 working with agencies on the policy to implement that
15 legislation. That was my responsibility.

16 Q In your role as senior economic adviser,
17 who did you report to? Who was your supervisor, if
18 you had one?

19 A I guess you would say it was Betsey
20 Wright. Betsey Wright was the chief of staff.

21 Q You reported to her?

22 A Yes.

1 Q What was the reporting relationship like?

2 A We worked as a team. It was sort of a team
3 concept more than anything else among senior people
4 on the staff.

5 Q Would she act as a liaison between you and
6 the Governor when you needed to communicate something
7 to the Governor or, rather, would you communicate
8 directly with the Governor if you needed to?

9 A It would depend upon the issue. Sometimes
10 I communicated through her to the Governor and
11 sometimes I communicated directly.

12 Q Do you know how many different senior
13 policy advisors were in the Governor's office during
14 the time period we mentioned earlier, January '83
15 through December of '86?

16 A How many senior policy advisors? I don't
17 remember what the exact titles were at the time, but
18 the people that I would consider senior policy
19 advisors, although I'm not sure about that title, I
20 can't tell you today what their titles were.

21 Betsey Wright. I know her title was chief
22 of staff. I know what my title was. I was a senior

1 adviser. Sam Bratton, who was either senior counsel
2 or general counsel or something like that, but he was
3 a lawyer. Maurice Smith, I forget what his title
4 was, but Maurice Smith was like just a senior adviser
5 of some type to the Governor. Those were the senior
6 people that I remember.

7 Some other people may have considered
8 themselves senior and they may have been, but I don't
9 know.

10 Q As often happens in a lot of
11 organizations.

12 Are you familiar with leases that were
13 entered into by Arkansas State Building Services and
14 Arkansas Development Finance Authority with Madison
15 Financial Corporation or Madison Guaranty Savings &
16 Loan in the period of 1984 through 1986?

17 MR. SIMPSON: Object to the form as vague.
18 But you can answer.

19 BY MR. O'CALLAGHAN:

20 Q Are you familiar with any leases --

21 A I read in the newspaper and listened to a
22 hearing recently where that was discussed, and during

1 campaigns that has come up several times, but I don't
2 know much in detail about it.

3 Q When you say you listened to the hearings,
4 what hearings are you referring to?

5 A There was a hearing last week or this
6 week -- I can't remember -- where a staff member --
7 in fact, it was Sam Bratton. One night I caught
8 about 10 or 15 minutes of it where there was
9 discussion about a lease at Madison.

10 Q Are you referring to a Special Committee
11 hearing?

12 A It was C-SPAN or CNN. I was channel
13 surfing and there it was.

14 MR. PORTNOY: The record should probably
15 reflect that Mr. Bratton appeared before our
16 committee and gave testimony fairly recently, so
17 there is a substantial probability that the testimony
18 you heard was in fact testimony before this
19 committee.

20 THE WITNESS: Okay.

21 BY MR. O'CALLAGHAN:

22 Q During the period -- I can give you a

1 specific period on this. April 1984 through August
2 1985, did you have any knowledge about leases that
3 were entered into by any state agency with Madison
4 Guaranty Savings & Loan or Madison Guaranty Financial
5 Corporation?

6 A I remember that the Arkansas Housing
7 Development or Development Finance Authority,
8 whatever the case was during that time, but it
9 changed somewhere in the mid-'80s. In fact, when it
10 changed, they expanded their programs and they needed
11 more space and they were going to move to find other
12 space. I was aware of that.

13 MR. PORTNOY: Contemporaneously, sir?

14 BY MR. O'CALLAGHAN:

15 Q That was at the time it happened; is that
16 right? Just so we are clear.

17 A At the time -- as I remembered, legislation
18 was passed expanding the authority in the mid-'80s,
19 whenever it may have been. It probably was '85 when
20 the legislation was passed. Sometime after that the
21 agency decided that they needed more space because
22 they had more programs.

1 Sometime during that period they indicated
2 that they needed more space, and I was aware of that
3 at that time. I was a liaison to ADFA.

4 Q Did anyone contact you in your capacity as
5 a liaison to ADFA with regard to their desire to get
6 more space?

7 A I remember Wooten Epes, who was the
8 director or whatever his title was at the time, of
9 the agency, informing me that they were going to
10 implement the new legislation and that they would be
11 needing more space.

12 Q Did he ask for your assistance in locating
13 space? What was the substance of the conversation?

14 A No, I don't think he asked for my
15 assistance. If an agency is going to expand or hire
16 more people, that is the kind of thing the liaison
17 would be informed about. If somebody wanted to
18 expand for no good reason, we would say, you can't
19 expand. I know the legislation passed because I
20 helped get the legislation passed.

21 Q Did he express to you what his purpose was
22 for informing you that they needed more space?

1 A I'm not sure I understand your question
2 again.

3 Q Other than just general information that
4 the agency was expanding, which I assume you knew
5 about, that they would need additional space, did he
6 say there was a specific reason why he contacted
7 you? Was he looking for guidance from the Governor's
8 office in how to proceed?

9 A It was in the regular course of business.
10 As his liaison, if he was running an agency and he
11 was going to move, it would be proper for him to
12 inform me that he was moving. So that was, I assume,
13 the reason he informed me. It would have been
14 improper if he was going to move a state agency and
15 expand and hire new employees and not tell me.

16 Q Were you consulted at any time during the
17 process of ADFA or State Building Services with
18 regard to their negotiation of a lease to expand
19 space?

20 A Wooten Epes at some time -- I don't
21 remember the date -- I guess after he initially
22 informed me they were going to be expanding, I

20

1 remember vaguely him indicating to me that he did not
2 want to move to a particular location. I think it
3 was Madison Guaranty bank building on Main Street. I
4 think he said his employees didn't want to move into
5 a low-income area.

6 Q I would like to show you and your counsel a
7 one-page document on Arkansas Housing Development
8 Agency letterhead dated March 5, 1984. It is a
9 letter addressed to Helen Vowell, State Building
10 Services. The signature line reads Wooten Epes.

11 I realize it is a tough copy to read. It
12 was copied off of microfiche. Take a moment to
13 review that. I will ask you if after reading that it
14 helps refresh your recollection as to when you spoke
15 with Mr. Epes and whether this changes your
16 recollection whether it was 1984 or '85.

17 (Witness examined the document.)

18 A Now, what is the question again?

19 Q I believe you testified earlier that your
20 first -- that you recalled Mr. Epes talking to you
21 about ADFA wanting to expand their office space after
22 the legislation which I guess expanded their

1 authority; is that right?

2 A That's correct.

3 Q And you said that Mr. Epes expressed -- he
4 didn't want to move into the Madison Guaranty
5 building because it was in a low-income area; is that
6 correct?

7 A That's correct. I remember him saying that
8 to me.

9 Q The question is, do you recall whether you
10 had any conversations with him before 1985 with
11 regard to ADFA moving into the Madison Guaranty
12 building?

13 A I don't recall the specific date. I
14 don't. I believe the session was in '85. It could
15 have been in '84, but I think it was in '85. But I
16 don't recall specifically when I talked to him,
17 whether it was '84 or '85. I believe it was either
18 during or after the session but when we knew the
19 legislation was going to pass. Otherwise, they would
20 have had no need to move.

21 Q After Mr. Epes informed you that the agency
22 didn't want to move into the Madison building, he

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1 expressed you that they didn't want to move into a
2 low-income area, do you recall if you had any
3 response or what your reaction was?

4 A Yes. I vaguely remember that I had some
5 concerns about the agency -- I had some concerns
6 about the point he made because I thought that it was
7 appropriate for them to move into a low-income
8 neighborhood because that is what our administration
9 had been about, whether it be poor rural areas, inner
10 cities or deteriorating neighborhoods.

11 I thought it would be appropriate for a
12 state agency to make a statement, and I thought a
13 low-income neighborhood was as good as anywhere else
14 to go. I remember communicating that to him. It may
15 not have been in those exact words, but I remember
16 communicating that point to him.

17 Q Did he express to you any concerns he had
18 with regard to the actual space in the Madison
19 building, whether it was adequate for the agency
20 needs?

21 A I don't remember him communicating that.
22 He could have.

1 Q Did you attend any meetings with the
2 Governor or Mr. Epes with regard to ADFA leasing the
3 Madison space?

4 MR. SIMPSON: Did you say the Governor and
5 Mr. Epes?

6 MR. O'CALLAGHAN: Yes, correct.

7 THE WITNESS: And Mr. Epes? I don't
8 remember attending a meeting with the Governor and
9 Mr. Epes about the agency leasing space at Madison.

10 BY MR. O'CALLAGHAN:

11 Q Did you have any meetings with the Governor
12 with regard to ADFA leasing the space at Madison?

13 A I don't remember having any meetings with
14 the Governor regarding that issue.

15 Q Let me be more general. Any discussions
16 with regard to this issue of ADFA leasing Madison
17 space.

18 A With?

19 Q With the Governor. I'm sorry.

20 A I don't remember having a discussion with
21 him. I may have informed him in the normal course of
22 business that an agency was moving, but that probably

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1 would have been in conjunction with the passage of
2 the legislation. But I don't remember any specific
3 discussion or general discussion about this lease
4 with the Governor.

5 Q Maybe just to help your recollection, do
6 you recall passing on Mr. Epes's concerns to the
7 Governor?

8 A No, no, I don't. I don't remember passing
9 those concerns on.

10 Q Did you make any recommendations to
11 Mr. Epes about what steps he should take after he
12 informed you they didn't want to move into the
13 Madison space?

14 MR. SIMPSON: Beyond what he has already
15 described?

16 MR. O'CALLAGHAN: Correct.

17 THE WITNESS: I don't remember making any
18 specific recommendations other than what I have
19 already stated.

20 BY MR. O'CALLAGHAN:

21 Q Do you recall at the time Mr. Epes spoke
22 with you whether or not you knew the Governor had a

1 position as to whether or not ADFA should move into
2 the Madison space?

3 A No. I was not aware that he had a position
4 on where they should move.

5 Q Do you know whether he was aware that the
6 agency was considering moving into the Madison space?

7 A No, I'm not aware that he knew that they
8 were moving into the Madison space. Obviously at
9 some time he did because they moved, so I'm sure he
10 knew at some time.

11 Q Do you have any knowledge of any meetings
12 that the Governor had with Mr. Epes and anyone else
13 with regard to ADFA moving into the Madison space?

14 A I don't have any personal knowledge. As I
15 stated earlier, this week or last week -- I can't
16 remember -- at a hearing before I assume it was the
17 Banking Committee where Sam Bratton was there, as I
18 was looking at the television, I saw some parts of
19 his testimony where he indicated that there was a
20 meeting.

21 I cannot remember right now who he said was
22 in the meeting, but I remember him saying that he had

1 a meeting with the Governor, I think, and some other
2 people.

3 Q During the time period 1984 through 1985,
4 you weren't aware of any meetings with regard to ADFA
5 and Madison leases?

6 MR. SIMPSON: That he recalls.

7 MR. O'CALLAGHAN: Yes.

8 THE WITNESS: I don't recall any meetings
9 like that.

10 BY MR. O'CALLAGHAN:

11 Q Any recollection, whatever you recall or
12 remember. I can't ask you to tell me about something
13 you don't remember.

14 A Okay.

15 Q Have you ever learned that Madison was
16 given leasing contracts with ADFA in return for
17 campaign contributions given to the Governor?

18 A No.

19 Q Have you ever heard that?

20 A No, I haven't. Let me amplify that. There
21 have been some press accounts throughout this
22 process, and I can't remember whether it was The

1 Arkansas Democrat or The Washington Post, but that
2 has been in the newspaper. I read that, and I can't
3 remember when.

4 Q Outside of newspaper accounts?

5 A No.

6 Q Have you heard that Madison was provided
7 the opportunity to enter into lease contracts with
8 any state agencies, Arkansas state agencies in return
9 for campaign contributions that might have been given
10 to the Governor?

11 A Have I heard of any -- I'm sorry?

12 Q It was a long question.

13 A One more time, please.

14 Q Have you heard that Madison Guaranty or
15 Madison Financial Corporation was granted lease
16 contracts with any state agencies in return for
17 campaign contributions?

18 MR. SIMPSON: Let me object to the form.

19 Do you mean other than newspaper accounts?

20 MR. O'CALLAGHAN: Other than newspaper
21 accounts, yes.

22 THE WITNESS: Other than newspaper

1 accounts, no, I have not. It has all been newspaper
2 accounts that I have read or television or some other
3 kind of mass media where everybody else, you know.

4 BY MR. O'CALLAGHAN:

5 Q During the period 1984 through 1985, did
6 you have any discussions with anyone associated with
7 either Madison Guaranty or Madison Financial
8 Corporation related to their desire to lease space to
9 the state?

10 A No, I don't recall any conversation like
11 that.

12 Q During 1984 to 1985 again, that same time
13 period, did you have any discussions with Betsey
14 Wright with regard to Madison leasing space to the
15 state?

16 A I don't recall having a conversation with
17 her about that, but I could have. She was the chief
18 of staff and I was the liaison. But I don't remember
19 one, no.

20 Q Do you know who in the Governor's office
21 during that time, 1984 through '85, acted as liaison
22 with the Arkansas State Building Services?

1 A I can't remember specifically.

2 Q Did you have conversations with anyone on
3 the Governor's staff with regard to Madison Guaranty
4 leasing space or Madison Financial Corporation both
5 leasing space to the state, office space?

6 A I don't recall having a conversation
7 specifically with anybody on the staff, but again, I
8 could have. Betsey being the chief of staff, I could
9 have talked to her about it. I may have talked to
10 Sam Bratton about it, but I don't know that I did
11 specifically.

12 Q Would you generally have relayed the
13 conversation you had with Mr. Epes to Ms. Wright?

14 MR. SIMPSON: I object to the form.

15 THE WITNESS: Would you rephrase that?

16 MR. SIMPSON: I'm not sure what you mean by
17 generally relayed a conversation.

18 BY MR. O'CALLAGHAN:

19 Q The conversation of this nature where a
20 director of a state agency expressed concern about
21 moving into the Madison space, would that have been a
22 conversation you would have related to Ms. Wright?

30

1 A It is a possibility. It is a possibility I
2 could have, but because I have a long-standing
3 interest and the policy of the state was to be very
4 supportive of low-income areas, I may not have,
5 because I felt like there was clear policy in that
6 area in terms of promoting the development of
7 low-income areas, inner city areas, rural areas.

8 So, I may not have. Obviously if there is
9 some policy question, then I'm sure I would if I felt
10 uncomfortable advocating a certain position.

11 MR. O'CALLAGHAN: Off the record.

12 (Discussion off the record.)

13 MR. O'CALLAGHAN: Mr. Nash, generally the
14 way these depositions work and you may be familiar
15 with this already --

16 THE WITNESS: Not a lot, no.

17 MR. O'CALLAGHAN: The way the Committee
18 has been conducting depositions is the Majority asks
19 questions first and the Minority follows with
20 follow-up, and we go back and forth depending on how
21 much clarity we feel needs to be added to the record,
22 or confusion, depending on how you look at it.

1 Due to the fact that I am going to ask you
2 questions about a number of different subjects today,
3 we will change the format a little bit, if that's
4 okay with you and your counsel, to go back and
5 forth. I just asked a number of questions on the
6 Madison leases. I don't have any further questions
7 on that subject right now.

8 What I would like to do is give Mr. Portnoy
9 an opportunity to ask any follow-up or clarifying
10 questions so we can address the issue at one time and
11 have a coherent record, if that is acceptable to you
12 and your counsel. I think that is the way we would
13 like to proceed.

14 MR. SIMPSON: That's fine.

15 THE WITNESS: That's fine.

16 EXAMINATION

17 BY MR. PORTNOY:

18 Q Good morning, Mr. Nash. My name is Jim
19 Portnoy. I'm counsel for the Minority. I have a few
20 follow-up questions on the specific question of the
21 leases.

22 A Okay.

1 Q You testified that you considered it, I
2 believe the word you used was appropriate for the
3 Arkansas Housing Development Authority and the
4 successor agency, ADFA, to move into the Madison
5 Guaranty building.

6 I believe you also testified that you
7 believed it was appropriate because that was
8 consistent with administration economic development
9 policy. Could you elaborate on that policy.

10 A Yes. The Governor, when he came into
11 office, was known to be very concerned about
12 underemployed rural areas, deteriorating parts of the
13 state. That part of Main Street where Madison was
14 located was a deteriorating part of the city, and a
15 number of organizations, local as well as state
16 government, were supportive of development in that
17 area.

18 The Quapaw Quarter Association was
19 concerned with bringing people back from the suburbs
20 into downtown to restore old houses, and commercial
21 establishments were trying to open up store fronts.
22 So, there were a number of activities by state, city

1 and nonprofit organizations to do that.

2 Our policy at the state level was to be
3 very supportive of that. When I heard that there was
4 an interest in a building in that area, it wasn't
5 necessarily specifically -- in this case, it was
6 Madison, but any building on Main Street, that whole
7 area was considered a development area for a number
8 of us.

9 My point that I vaguely remember was that
10 that area was -- the governor's mansion is in that
11 area, and there were a number of other efforts to
12 develop in that area, and I thought it was consistent
13 with state policy to do that, and that's why I was
14 supportive.

15 Q What was the function of the Housing
16 Development Agency and ADFA?

17 A The function of the agency was to issue
18 tax-exempt and taxable bonds initially to finance
19 single and multifamily housing in low-income areas of
20 the state, not only, but that was our target.

21 Later on, when the agency got legislation
22 to expand its authority, it continued to finance low-

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1 and moderate-income housing, but it also obtained the
2 authority to issue bonds for other kinds of
3 development, manufacturing, water, sewer, commercial
4 buildings and other types of economic development.

5 Q Would it be fair to characterize the
6 purpose of the two agencies in general terms as
7 promoting economic development?

8 A Yes.

9 Q Did you consider whether it was especially
10 appropriate for an agency dedicated to economic
11 development to move into an area that the
12 administration was trying to redevelop?

13 A Yes, I did. It was consistent with what we
14 were doing and had been doing for a number of years.

15 Q So, you would have been supportive of
16 virtually any agency moving into that area; is that
17 correct?

18 A Yes.

19 Q But there were particularly good reasons
20 for an economic development agency to move into that
21 area?

22 A Well, I think -- yes, I think so, because

1 the agency was known to be about economic
2 development, and I thought it was a good sign to the
3 city and the rest of the state for us to do that, as
4 we had done before.

5 Q You indicated earlier in your testimony
6 that you considered the idea of moving a state agency
7 into a low-income neighborhood to be a way to make a
8 statement. What kind of statement were you intending
9 to make?

10 A That low-income communities could be
11 developed as well as any other part of the state. It
12 didn't have to be a suburb, primarily a suburb, or an
13 affluent area.

14 Q This was a long-standing administration
15 policy?

16 A Yes.

17 Q This was work that you had been involved in
18 even prior to joining the administration?

19 A Yes. My work with the Rockefeller
20 Foundation for about seven years was involved with
21 grantmaking for economic development in low-income
22 areas all over the state, in Little Rock.

1 In fact, I guess the building where the
2 Rockefeller Foundation was located, which was located
3 in this same general area, one of the reasons we
4 moved there was to restore an old dilapidated house
5 which we bought. We were actually down from the
6 state capitol, in fact right across from the state
7 capitol.

8 We moved into this area and restored an old
9 house. It made quite a statement. In fact, it
10 spurred development in and around the Rockefeller
11 Foundation.

12 Q Was it your hope that the development of
13 the Madison building would spur further economic
14 development in that neighborhood?

15 A I had hoped that it would, and to show that
16 low-income areas would be appropriate for
17 professional office buildings.

18 Q Mr. Epes at some point conveyed to you
19 concerns about the neighborhood or about personal
20 security for employees. Is that what you testified?

21 A I'm not sure I understand the question.

22 MR. O'CALLAGHAN: I don't think he said

1 personal security. He just talked about the
2 low-income area of the neighborhood.

3 BY MR. PORTNOY:

4 Q I believe you testified that Mr. Epes
5 expressed to you that some of his employees had
6 expressed to him concern about moving the office to a
7 low-income neighborhood.

8 A Yes. He did. He did say to me that they
9 were concerned about that. I think personal safety
10 was, as I remember it now, one of the things I think
11 he might have mentioned.

12 Q Did you consider employee objections to
13 working in a low-income neighborhood to be a
14 legitimate basis to block the move?

15 A Well, I figured that it was just a lack of
16 understanding or a perception that because an area
17 was low-income that it automatically was not as safe
18 as other areas, and I just don't believe that. But I
19 think it was a concern that obviously you have to pay
20 attention to.

21 But I did not think that it was a security
22 problem in that area, because again, the governor's

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1 mansion is in that area and a lot of other people
2 have moved into that general area and restored old
3 homes. It was coming back.

4 Q So, would it be fair to say that you
5 considered those objections to be honest and perhaps
6 legitimate but insufficient to cause you to modify
7 the administration's policy?

8 MR. O'CALLAGHAN: Are you saying he was
9 being asked to do that, to modify the
10 administration's policy? Are you asking about his
11 personal opinion about the objections?

12 MR. PORTNOY: I'm happy to rephrase it.

13 BY MR. PORTNOY:

14 Q You considered those employee objections to
15 be sincere and legitimate; is that correct?

16 A Yes.

17 Q But you didn't consider them to be
18 sufficient to cause you to take action to block the
19 Housing Development Agency from moving to the Madison
20 building, did you?

21 A No. I thought the concerns were sincere
22 but unfounded. As I have over the years, when people

1 automatically assume that because people who make
2 \$15,000 a year family income is less safe than people
3 who make \$50,000 a year in family income.

4 So, my history, my personal history has
5 been to advocate the development of those areas, and
6 I continue to do that, and I thought that it was
7 consistent -- I knew it was consistent with the
8 policy of the administration to advocate development
9 in low-income areas, rural areas and inner cities.

10 Q Mr. Nash, did you exert any influence
11 whatsoever on the SBS to induce them to select the
12 Madison building for the ADFA offices?

13 A No. I don't recall exerting any influence
14 or pressure -- did you say pressure?

15 Q Influence was the word I used.

16 A Influence, no. I may have communicated at
17 that time my interest, but I don't remember that
18 specifically.

19 Q You didn't suggest the Madison Guaranty
20 building to SBS, did you, sir?

21 A No, I did not suggest the Madison Guaranty
22 building to State Building Services.

1 Q State Building Services came up with the
2 idea of moving ADFA to the Madison Guaranty building
3 by itself, to the best of your knowledge?

4 A To the best of my knowledge they did. I
5 don't know for sure, because I was not their contact
6 and I don't know exactly how that came up.

7 Q The first you learned of the proposal to
8 move ADFA to the Madison building was when Mr. Epes
9 told you?

10 A I think that's correct.

11 Q Did Governor Clinton ever ask you to try
12 and help Madison Guaranty find state tenants?

13 A Help Madison Guaranty find state tenants?
14 No, he never asked me to do anything like that.

15 Q Did anyone on Governor Clinton's staff or
16 anyone associated with Governor Clinton ever ask you
17 to try and look out for Madison Guaranty in some
18 fashion?

19 A No.

20 Q To your knowledge, did Governor Clinton or
21 anyone acting on his behalf seek to influence SBS to
22 select the Madison Guaranty building as the site for

1 state offices?

2 A No, not to my knowledge.

3 Q Do you have any reason to believe that the
4 process by which the Madison Guaranty building was
5 selected as the site for the ADFA offices was
6 anything but proper and appropriate?

7 A No, I have no reason to believe that it was
8 not proper and appropriate.

9 MR. PORTNOY: That's all I have, sir, thank
10 you.

11 EXAMINATION

12 BY MR. O'CALLAGHAN:

13 Q Mr. Nash, Mr. Portnoy was asking you
14 questions. You say you may have communicated to
15 State Building Services?

16 A I could have, but I don't remember
17 specifically at the time. I remember the director
18 was Paul Mallard, and I don't think there was any
19 secret about my advocacy for development of
20 low-income areas. I could have done that, but I
21 don't remember specifically.

22 Q At the time do you know whether Mr. Mallard

1 was a friend or associate of the McDougals, Susan and
2 Jim McDougal?

3 A I was not aware at that time, nor am I
4 aware now.

5 Q At that time were you aware whether or not
6 the Governor and Mrs. Clinton were friends and
7 associates with Jim and Susan McDougal?

8 MR. SIMPSON: Objection to the form.
9 "Associates," I don't know what you mean by that.

10 BY MR. O'CALLAGHAN:

11 Q I will just go with friends.

12 A I knew that Jim McDougal was a political
13 supporter of President Clinton's, and I knew that he
14 used to work on his staff.

15 Q Did you know at the time that he was
16 also -- that he also had associate with Madison
17 Guaranty Savings & Loan?

18 A Did I know Jim McDougal had an
19 association? At which time?

20 Q At the time of the leases.

21 A Yes, I did.

22 Q You stated that you were supportive of

1 economic development in the Quapaw Quarter; is that
2 correct?

3 A Yes. The Quapaw Quarter is an area that is
4 either overlapping or adjacent to the area where the
5 governor's mansion, Madison Guaranty and a lot of
6 redevelopment of old larger homes, the Rockefeller
7 Foundation and some new commercial establishments are
8 located.

9 Q During the period 1984 to 1985, are you
10 aware of any other state agencies that moved into
11 that area?

12 A Let me think. I can't remember off the top
13 of my head, but I think -- I am almost sure in that
14 area I just described that there probably were some
15 other state agencies that moved into that area, but I
16 just can't remember right now.

17 Q Do you recall whether the Department of
18 Finance Revenue Division moved into that area during
19 that time period?

20 A I don't know when -- there is a revenue
21 office on Main Street in this same area, but I don't
22 know exactly when they moved. I think it is a

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1 driver's license and auto tag office.

2 Q So, you don't recall whether any other
3 agencies moved into that area during that time
4 period?

5 A Like I say, in that general area, I'm sure
6 there was, but I don't remember specifically during
7 that time period. There were some commercial
8 establishments, restaurants, some housing
9 developments, multifamily housing development. But I
10 don't recall -- there may have been a state agency or
11 two. In fact, I'm almost sure there was.

12 MR. O'CALLAGHAN: I have no further
13 questions on that issue at this time. We discussed
14 taking an early lunch break. It is about quarter to
15 12:00. Why don't we take about an hour. We will
16 break until 1:00, if that's okay.

17 (Whereupon, at 11:45 a.m., the deposition
18 was recessed, to be reconvened at 1:00 p.m. this same
19 day.)
20
21
22

AFTERNOON SESSION (1:20 p.m.)

Whereupon,

BOBBY J. NASH

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

EXAMINATION (Continued)

BY MR. O'CALLAGHAN:

Q During the period January 1983 say through December 1986, when you were acting in your capacity as senior economic adviser, you stated that one of the agencies that you had liaison responsibilities for was Arkansas Development Finance Authority; is that right?

A That's correct.

MR. SIMPSON: And the predecessor.

BY MR. O'CALLAGHAN:

Q And the predecessor, Arkansas Housing Development Agency.

A Yes.

Q If it is okay with you, for convention purposes, I will just refer to both of them right now as ADFA. If you want to make a distinction between

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both of them, let me know and I will do the same with you if I have a specific question toward one or the other.

A That's okay.

Q During that time period, was there a specific person at ADFA that you had direct contact with on a regular basis?

A Yes. It was Wooten Epes.

Q How frequently were you in contact with Mr. Epes, would you say?

A I can't remember specifically. I know at least on a monthly basis at least. It would not necessarily have been on a weekly basis most times, but in some cases I could have talked to him each week for a month. But sometimes I might not have.

Q Did you have a set monthly meeting with him or did you just generally regularly talk to him at least once a month?

A I did not have a set monthly meeting with him, but I just -- my memory says that it was probably as frequently as monthly.

Q I will restrict the question specifically

1 to ADFA. What were your liaison responsibilities
2 specifically in relation to ADFA? What type of work
3 did you do? Setting up communications? If you could
4 expand on that a little bit.

5 A An example would be if they were going to
6 implement or recommend some new legislation to change
7 a program, if they were going to implement a program
8 for some legislation that was passed in the past, if
9 they were going to have a public announcement of a
10 new program. Those are some of the typical examples
11 of the kinds of work and the liaison function I would
12 perform, and I would have communication with Wooten
13 Epes about those issues.

14 Q And then would you keep the Governor
15 apprised of the communications you had with Mr. Epes,
16 typically?

17 A If I thought it was worthy of his
18 attention, I would. If not, I would not.

19 Q When you said if the agency was going to
20 put forward a new program, when you are saying
21 "program," what are you referring to?

22 A A program might be if the agency was going

1 to purchase buildings for state offices, that's a new
2 program. Even though they might have the legislative
3 authority to do it, on the books they didn't put all
4 of the programs into effect at one time.

5 So, as they were bringing programs on-line,
6 the only thing you have is legislation. Following
7 that, you have to have policies, you have to decide
8 when you are going to announce it, those kinds of
9 things. That's the kind of communication I would
10 have on a new program.

11 New legislation would be something that
12 they are not currently authorized to do, and if they
13 were going to submit some legislation to the Arkansas
14 legislature, before they would do that, they would
15 come through the Governor's office and I would be the
16 point of contact for that legislation. So those are
17 two examples.

18 Q Did you attend any of the board meetings
19 that the agency had during that time period?

20 A Yes.

21 Q How many board meetings would you say you
22 attended during that time period?

1 A I really don't know.

2 Q This might help out. Did you attend like
3 every board meeting?

4 A No.

5 Q Did you regularly attend board meetings?

6 A When you say regularly -- first of all, the
7 board met, as I remember, I believe it was once a
8 month, although I'm not positive on that. I know
9 they met once a month.

10 I guess maybe when I was there I am pretty
11 sure they met once a month. I think they met once a
12 month while I was in the Governor's office, but I'm
13 not positive. I would go to some of those monthly
14 meetings, but I can't remember how often I went.

15 Q When you attended the board meetings, would
16 it be for a specific project or did you attend just
17 as part of your job of trying to stay informed?

18 A I would attend as part of my job, as I did
19 others who had boards like the Industrial Development
20 Commission. They had a board meeting and they met, I
21 think they met monthly, and I would go to those
22 also.

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1 I would sort of move it around because I
2 had five or six agencies and not every one of them
3 had boards. For those who had boards, I would try to
4 make it a practice that when I could get there, I
5 would try to sit down for at least part of the
6 meeting, if not all of the meeting.

7 Q Did you have any role in providing advice
8 to the agencies with regard to the way they
9 structured bond underwritings for any projects they
10 were sponsoring?

11 A While I was in the Governor's office?

12 Q Yes, sir.

13 A No, I didn't have a role in how they
14 structured bond issues.

15 Q Did you have any role in providing advice
16 or consultation with regard to what underwriting
17 firms the agency used?

18 A No, not specifically, other than
19 implementation of a policy that the Governor had
20 stated having to do with the agency should be, I
21 think his term was, inclusive rather than exclusive.

22 Q Are you aware of what criteria were used by

1 the agency in choosing co-managing underwriters for
2 participation in the different bond offerings the
3 agency did?

4 A During the period I was in the Governor's
5 office?

6 Q Yes, sir, during the period you were in the
7 Governor's office.

8 A I don't recall the criteria they used for
9 selecting, you said co-underwriters?

10 Q Co-managing underwriters.

11 A I don't remember what the criteria were at
12 this time.

13 Q Are you familiar with any criteria they
14 used for selecting any underwriters of any type?

15 A The only criteria I'm familiar with again
16 is the Governor's stated policy of inclusion rather
17 than exclusion, which meant the agency should
18 consider any qualified bond writer who wanted to do
19 business with the agency, should consider that.

20 Q Did you attend any of the board meetings
21 that occurred in March and April of 1983? This would
22 have been early on in your service in the Governor's

1 office.

2 A That has been more than a decade ago, and I
3 don't remember whether I did or did not.

4 Q March and April would have been pretty
5 shortly after you began service in the Governor's
6 office; is that right?

7 A Yes, because I think I began service in the
8 Governor's office around January or February of
9 1983. So, in -- the months you asked about were
10 March?

11 Q March and April, within a month or two or
12 three of you beginning at the Governor's office.

13 A I don't remember whether I did, but I could
14 have.

15 Q Do you remember early on whether you
16 attended meetings, ADFA board meetings?

17 A What do you mean by early on?

18 Q The first six months of your tenure.

19 A The first six months of 1983?

20 Q Yes.

21 A I don't remember attending any, but I very
22 well could have.

1 Q When you first began work in the Governor's
2 office, did you the first few months you were in
3 there have monthly contact with Mr. Epes?

4 A When I first joined the Governor's office
5 did I have monthly contact?

6 MR. SIMPSON: Approximately monthly, you
7 mean?

8 MR. O'CALLAGHAN: Yes, consistent with --

9 THE WITNESS: It could have been. I don't
10 want to guess. Let me just say I don't remember that
11 I did, but I could have. That would be consistent
12 with what I remember the general pattern being. Once
13 a month would not have been necessarily out of the
14 question to have some contact, either personally or
15 by telephone.

16 BY MR. O'CALLAGHAN:

17 Q Are you familiar with someone by the name
18 of Linda Trent?

19 A Yes.

20 Q I believe actually during this time period
21 that she was acting director of the agency.

22 MR. SIMPSON: 1983?

1 MR. O'CALLAGHAN: Yes, March.

2 THE WITNESS: Let me say this. During the
3 time I was in the -- well, during the time I was in
4 the Governor's office until I left, there may have
5 been two or three people who were either permanent
6 directors or acting. I know Wooten was a permanent
7 director for a while. Linda Trent was housing
8 director. I vaguely remember her being acting for
9 some period of time, but I don't know what month or
10 what year.

11 BY MR. O'CALLAGHAN:

12 Q Did you have conversations with her with
13 regard to the operation of the agency?

14 A I don't recall that I did, but if she was
15 the director for any length of time, that being
16 several months, then I probably did.

17 Q Again, during this time period, this is
18 early 1983, the March through April period, did you
19 have conversations with anyone at the agency with
20 regard to their selection of the team of underwriters
21 they were going to use for the single-family housing
22 bond projects?

1 A During what period of time?

2 Q In early 1983.

3 A I don't recall having a discussion with
4 them regarding any specific bond issue, but I could
5 have expressed the policy of inclusion rather than
6 exclusion. I could have; I don't remember
7 specifically.

8 Q Do you recall whether the agency chose a
9 group of underwriters to generally do single-family
10 bond offerings or whether they took new proposals for
11 each offering?

12 A Now, tell me the time period again.

13 Q This is beginning of 1983.

14 A You know, I don't recall specifically. I
15 do not recall whether or not -- I know that there
16 were a number of housing bond issues that were done,
17 and I cannot remember whether or not they selected
18 underwriters for every bond issue or whether they had
19 one there, whether they kept the bond underwriter for
20 the same issue. I don't remember specifically.

21 Q Do you have a general recollection that
22 that was a practice utilized by the agency at any

1 time, whether they chose a team of underwriters to do
2 specific types of offerings?

3 MR. SIMPSON: I object to the form. By
4 "that," what do you mean?

5 BY MR. O'CALLAGHAN:

6 Q The question is whether the agency hired or
7 identified groups of underwriters specifically to do,
8 let's say, single-family housing bond issuances.

9 A The answer is yes, the agency did hire bond
10 underwriters to do housing issues, that is correct.

11 Q Did they designate a group of underwriters
12 to do that, or was there an open process for each
13 underwriting?

14 MR. SIMPSON: I will object to the form.
15 It is confusing whether you are asking whether the
16 same group was used on several or whether --

17 MR. O'CALLAGHAN: That's what the question
18 is. I apologize if it wasn't clear.

19 THE WITNESS: Whether the same underwriters
20 were used for every housing bond issue?

21 BY MR. O'CALLAGHAN:

22 Q Yes.

1 A I don't think -- see, again, the time
2 period is -- my knowledge of ADFA goes primarily from
3 the time I was -- well, I can't remember the exact
4 time, but let me say this, I think the policies
5 changed depending upon whether you were talking about
6 the early '80s, the late '80s, the early '90s.

7 And I don't remember specifically what the
8 policy was during the first six months of 1983, the
9 period you are asking about. I get confused by these
10 years. I don't remember what the specific policy was
11 at that time.

12 Q Do you have any knowledge as to what the
13 policy was of the previous administration with regard
14 to including different underwriters in the ADFA bond
15 underwritings?

16 MR. SIMPSON: Referring to before '83?

17 MR. O'CALLAGHAN: Yes.

18 THE WITNESS: The previous administration
19 to me means the administration of Governor Frank
20 White.

21 BY MR. O'CALLAGHAN:

22 Q Governor White.

1 A No, I do not. I don't remember.

2 Q I would like to show you and your counsel a
3 document Bates stamped DKS 025880 through DKS
4 025881. It is a memorandum on ADFA letterhead. It
5 is to Doug Blackmon, reporter, Atlanta Constitution,
6 from Bob J. Nash, ADFA. Subject is investment
7 bankers. The date is February 26, 1992. There is a
8 signature next to the name Bob J. Nash.

9 Take a moment to review it and let me know
10 when you have had a chance to read the document.

11 (Witness examined the document.)

12 A Okay.

13 MR. O'CALLAGHAN: Counsel, have you had a
14 chance to review it?

15 MR. SIMPSON: Yes.

16 BY MR. O'CALLAGHAN:

17 Q Have you seen this document before?

18 A I'm sure I have.

19 Q Is that your signature that appears next to
20 the "Bob J. Nash" on the top of the page?

21 A That is my signature.

22 Q Do you remember preparing this document?

1 A No, I don't, but that is my signature, and
2 that's the ADFA letterhead.

3 Q During the time period noted here or the
4 date, February 26, 1992, were you president of ADFA
5 at that time?

6 A Yes.

7 Q I would like to direct your attention to a
8 portion on the first page that reads "Procedures that
9 dictate the selection of investment bankers include
10 the following."

11 A Yes.

12 Q On the first page, it is the beginning of
13 what appears to be the fourth paragraph, "Procedures
14 that dictate the selection of investment bankers
15 include the following."

16 A Yes.

17 Q The second item listed there says "Our
18 single-family investment banking team is the same for
19 each bond issue unless we feel that we need more
20 bankers to market a large number of bonds."

21 Was that the policy while you were
22 president or director of ADFA?

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1 A Just a second.

2 (Witness examined the document.)

3 Yes, that is one piece of the policy, that
4 point number 2. Yes, that is one piece of the
5 policy.

6 Q Was that the same policy that was in place
7 when you were a senior economic adviser to the
8 Governor?

9 A I do not know. I don't remember. I don't
10 remember. You mean -- this is like 10 years before
11 this?

12 Q Yes, or nine years.

13 A Nine years before that? I don't remember.

14 Q Okay, thanks.

15 I would like to show you a multipage
16 document; it is four pages long. It is minutes from
17 the Arkansas Housing Development Agency special
18 executive board meeting, 4:10 p.m. dated April 19,
19 1983. I show it to you. I think I have an
20 additional copy for your counsel.

21 I will direct your attention to a specific
22 portion of the third page. Let me know when you have

1 had a chance to look at it. I will ask you some
2 questions.

3 (Witness examined the document.)

4 I would like to direct your attention to
5 the third page. The fourth full paragraph reads
6 "Upon Mr. Harbits request for further business,
7 Mr. Wright made a motion that Collins, Locke &
8 Lasater be added to the underwriting team for the
9 agency's proposed 1983 multifamily issue in order to
10 spread it around and include more Arkansas
11 underwriters on this issue."

12 My first question is, were you aware that
13 Collins, Locke & Lasater was added to the 1983
14 multifamily issue in or around April 19, 1983?

15 A Was I aware? I don't remember at this
16 point that I was aware in 1983.

17 Q In 1983, were you familiar with the process
18 that was used by the agency to select underwriters?

19 A I don't remember specifically the process
20 that was used.

21 Q Do you remember whether or not the agency
22 set up subcommittees to consider proposals submitted

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1 to the agency by different underwriters?

2 A I remember at some time there were
3 subcommittees. I'm not sure specifically what they
4 did, but there were subcommittees of ADFA. I guess I
5 had subcommittees when I was head of it. I think
6 there were subcommittees back then, but I don't
7 remember specifically what their function was.

8 Q When you were head of ADFA, did your
9 subcommittees consider proposals presented by
10 underwriting firms who wanted to enter into
11 underwriting contracts with the agency?

12 A Yes. One I remember was an industrial
13 development bond subcommittee while I was president
14 of ADFA.

15 Q Did you have any other subcommittees that
16 considered proposals made by underwriters?

17 MR. SIMPSON: This is while he was --

18 THE WITNESS: While I was president?

19 BY MR. O'CALLAGHAN:

20 Q Yes.

21 A I think there may have been one on state
22 buildings, but I'm not really sure. I think there

1 may have been one -- I am pretty sure there was one
2 on industrial development bonds, and I think there
3 may have been either a formal or informal one on
4 state buildings.

5 Q The document that I showed you earlier I
6 will hand to you again, Bates stamped DKS N 025880 to
7 881. It is the memorandum to Doug Blackmon.

8 The part I pointed you to which states that
9 your single investment banking team is the same for
10 each bond issue unless you need more bankers to
11 market a larger number of bonds, did you also have an
12 investment banking team for each multifamily bond
13 issue?

14 A During what period of time?

15 Q During any period of time.

16 A During any period of time?

17 Q While you were president.

18 A While I was president?

19 MR. PORTNOY: Off the record.

20 (Discussion off the record.)

21 BY MR. O'CALLAGHAN:

22 Q The question is whether there was an

1 investment banking team that was used for the
2 multifamily bond issues while you were president.

3 A A team that did every one of them, attended
4 every multifamily issue?

5 Q The same team that was used whether every
6 member of the team was utilized, but a team
7 identified that could be utilized for the offerings.
8 I'm not saying that each and every one was used every
9 time, but there was a team that you went to to do the
10 underwritings.

11 A I don't specifically remember. I know that
12 the policy at the agency over the years over the
13 years the agency has been in existence has changed
14 from time to time, but I can't tell you today what
15 the full policy was at any given time. I can't tell
16 you that today.

17 I know that it was not the same from the
18 inception of the agency until I left, which is the
19 period I know about. I do not know, and I do not
20 remember what the policy was at the time I was in the
21 Governor's office for teams for multifamily housing.

22 Q Okay. Did you have an idea generally how

1 underwriters were chosen for the multifamily issues
2 while you were in the Governor's office?

3 A Generally, yes. Generally we wanted to
4 have people who were qualified and had experience,
5 and typically you would look at the red book to
6 determine whether people were in that publication.
7 We wanted to use as many Arkansas bankers as
8 possible, to keep the business in the state. The
9 agency wanted to use as many bankers as possible.

10 Those were some of the general policies
11 that I remember, but that is not meant to be
12 all-inclusive. Those are the things that I remember,
13 and I'm sure there were many, many more.

14 Q While you were at the Governor's office,
15 did you track which underwriting firms were being
16 hired by the agency? Did you check in the red book
17 to see whether the firms were appropriate to be
18 included in the underwritings?

19 A No. That was the agency's job.

20 Q Did the agency report to you with respect
21 to each bond offering which underwriting firms they
22 were using after they awarded the contracts?

1 A Yes. I knew which agencies they used. In
2 fact, they also had to report to the legislature, as
3 I remember it. I don't know when that started, but I
4 know at one time they had to report to the
5 legislature on each underwriting, but I forget which
6 year that started, as well as me as a liaison.

7 Q What form did that reporting take? Was it
8 a written report or would you get a phone call?

9 A Oh, I think it was -- I usually got a copy
10 of the official statement, which listed the -- which
11 described the transaction plus listed the
12 professionals who were involved.

13 Q During the time that the agency would be
14 putting together a bond offering, were you provided
15 with proposals prepared by different underwriting
16 firms that were vying to get underwriting contracts
17 with the agency?

18 MR. SIMPSON: What time period now?

19 MR. O'CALLAGHAN: This is any time during
20 any offering.

21 MR. SIMPSON: But while he was in the
22 Governor's office?

1 MR. O'CALLAGHAN: Yes.

2 THE WITNESS: No, I know I was not provided
3 any proposals on any kind of regular basis, nor do I
4 remember generally receiving proposals to review from
5 underwriters. But I did when I was president of
6 ADFA; that was my total responsibility. I reviewed
7 them.

8 BY MR. O'CALLAGHAN:

9 Q Just to make sure we are complete or being
10 thorough here, do you recall whether you ever
11 received any of the proposals that were submitted by
12 the underwriters?

13 A I don't recall whether I ever received a
14 proposal that was submitted to ADFA by underwriters
15 while I was in the Governor's office.

16 Q While you were in the Governor's office,
17 were you ever approached by any employees of the
18 underwriting firms that were competing for the ADFA
19 business?

20 A Yes. There were often people who would
21 call and ask whether or not there were opportunities
22 to compete for business for the state, and I would

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1 say probably every investment banker in the state --
2 not every one, but the majority of them who were
3 doing housing issues and IDBs, yes.

4 Q When you say they called with regard to
5 opportunities to participate -- is that what you
6 said --

7 MR. O'CALLAGHAN: Read back the last
8 response.

9 MR. SIMPSON: Read back the last question
10 and answer.

11 (The reporter read the record as requested.)

12 BY MR. O'CALLAGHAN:

13 Q During the time period we are talking about
14 when you were at the Governor's office, were there
15 any firms that didn't have an opportunity to compete
16 for the ADFA bond business?

17 A The only ones --

18 MR. SIMPSON: Object to the form.

19 You can answer.

20 MR. PORTNOY: You mean that were denied the
21 opportunity by the state government somehow or that
22 for some reason outside control of state government

1 did not compete?

2 BY MR. O'CALLAGHAN:

3 Q Let's do it within the bounds of within the
4 control of the state government.

5 A Anybody that was qualified, I assume the
6 agency would allow them to compete, anyone who was
7 qualified based upon the agency's determination of
8 who was qualified. If they were not qualified based
9 upon the agency determination, then they would not be
10 allowed.

11 Q Did you ever receive complaints from firms
12 that they weren't being allowed to compete for the
13 state business with regard to ADFA bond
14 underwritings?

15 A Complaints that they weren't allowed to
16 compete? No, I don't think I got any complaints that
17 I remember from agencies that they were not allowed
18 to compete.

19 Q Any complaints with regard to certain
20 underwriters receiving preferential treatment in
21 getting bond business with ADFA?

22 MR. PORTNOY: Is your question whether

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1 underwriters --

2 MR. O'CALLAGHAN: My question is my
3 question. Anybody.

4 MR. PORTNOY: Did anybody ever express to
5 Mr. Nash the view that certain underwriters were
6 receiving preferential treatment? Is that your
7 question?

8 MR. O'CALLAGHAN: I think my question
9 stands -- I think you just confused it. The question
10 was pretty clear. The question was --

11 BY MR. O'CALLAGHAN:

12 Q The question was, were there any complaints
13 that certain bond underwriting firms were receiving
14 preferential treatment with regard to receiving ADFA
15 business.

16 MR. PORTNOY: From anybody?

17 MR. O'CALLAGHAN: From anybody.

18 THE WITNESS: I cannot remember
19 specifically. I do know or remember generally that
20 during campaigns, gubernatorial campaigns, there were
21 complaints, and it may have been press complaints --
22 I can't remember. I'm not sure whether it was

1 editorials or -- I don't remember specifically who.

2 But it seems to me that around campaign
3 time there would be people who would be complaining,
4 but I can't remember specifically who they were
5 complaining about right now. Probably anybody that
6 didn't get business complained.

7 BY MR. O'CALLAGHAN:

8 Q I would like to show you a multipage
9 document bearing Bates stamps DKSJN 026151 through
10 26154.

11 (Witness examined the document.)

12 A Okay.

13 Q Have you seen this document before?

14 A I'm not sure I have seen this document. I
15 know that I have seen something, if not that
16 document, something similar to that. That goes back
17 to my earlier comment about complaints during
18 campaigns. Again, I forget by who. Probably whoever
19 didn't get business. But I remember something like
20 that, where there was a description of the actual
21 business the state had done and who they had done it
22 with.

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1 Q I will briefly describe the document for
2 the record. The first three pages contain different
3 charts. The first page reads "ADFA (and AHDA) use of
4 professional firms as underwriters and bond
5 counsel."

6 The third page is a similar chart, but it
7 includes ranked by total amount of bond issues
8 participated in. Then there is a third page which
9 has a list of underwriters and bond counsels with
10 abbreviations and locations of the firms.

11 You don't believe you have seen the
12 document in this form before?

13 A No. I'm saying that I have seen either
14 this document or something similar to it.

15 Q I would like to show you another multipage
16 document, DKSJN 027372 through 02738. I will
17 generally ask you if you have seen it before. I will
18 describe it --

19 A Is there a date on this document?

20 Q No, there isn't. This is the way it was
21 produced to us as well.

22 The first page reads "Arkansas Development

1 Finance Authority bond underwriters, bond counsel and
2 special tax counsel." It has three columns of issue
3 and it has a number of dates under that, original
4 issue amount, underwriter (lead listed first) and
5 then there is a third column which reads "Authority's
6 counsel (BC) special tax counsel (TC)."

7 (Witness examined the document.)

8 My first question is, have you seen this
9 document before?

10 A I have either seen this document or
11 something similar to it.

12 Q But you don't recall if you specifically
13 have seen this?

14 A I don't recall that I have specifically
15 seen this document, but again, something similar to
16 it or this.

17 Q Whether this document or a document similar
18 to this that you think you may have seen, what
19 context would you have seen it in?

20 A In what context?

21 Q Yes.

22 A As I remember it -- and again, I see no

1 date on here, so I don't really know, but I can
2 remember during campaigns questions would come up in
3 the press regarding the underwriters and bond
4 counsels that the agency employed, and the press
5 would always ask questions, and I remember what the
6 agency would always produce documents for the press
7 and answer questions.

8 This may be a document that the agency
9 prepared either while I was there or before I got
10 there.

11 Q It might be helpful if you look at the
12 dates of some of the underwritings which are listed.
13 The second to the last page has I believe 1991 A&B
14 listed as the last offering there.

15 A The second page?

16 Q The last page, actually.

17 A The last page? Okay.

18 Q 27382. It says 1991 A&B.

19 MR. PORTNOY: We can represent to Mr. Nash
20 that 1991 is the latest date on the document, I
21 believe. Isn't it? From my review it was.

22 MR. O'CALLAGHAN: Yes.

1 MR. PORTNOY: Presumably this document
2 would have to have been prepared sometime in or
3 around 1991.

4 THE WITNESS: Okay. So then it could have
5 been prepared, if my memory -- I referred to
6 campaigns. There was a campaign, obviously, in '92.

7 BY MR. O'CALLAGHAN:

8 Q A Presidential campaign?

9 A Yes. There was a campaign in 1990, a
10 campaign in '86 and a campaign in '84. So, at one of
11 those campaigns, there was a document produced in
12 response to questions by the press, as I remember it,
13 about the agency and who it did business with. This
14 document looks like one of the ones or similar to one
15 of the ones that I remember being prepared.

16 Q This is when you were at the agency? Was
17 this when you were at the agency?

18 A I think that there were documents prepared
19 probably every campaign that I can remember, probably
20 starting in -- when I say documents, responses. Some
21 of it could have been letters. Some of it could have
22 been like this. But probably starting in -- did I

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1 say '84? I think it was '84.

2 Q This document -- anything you did in 1991
3 or after 1991.

4 A It probably was in response to a 1992
5 campaign, because that's the only campaign that
6 occurred after 1991.

7 Q And were you at the agency any time during
8 that campaign, during the '92 campaign?

9 A Was I at ADFA?

10 Q Yes.

11 A I was president of ADFA up until November
12 of 199 -- or December of '92.

13 Q Let me show you one more document which may
14 be helpful. It is DKS N 027392 through DKS N 027414.
15 Let me know if you have seen that before. I will
16 identify it for the record.

17 It looks -- it is a list of I believe
18 different underwriters, the first portion. The
19 underwriters are listed and then the third page has
20 ADFA use of other underwriters in alphabetical order
21 within certain time periods by periods. Then it has
22 ADFA use of other underwriters by total dollar amount

1 of issues for periods on page 27400, the Bates
2 number.

3 A 27400.

4 Q It continues with similar charts. Have you
5 seen this document before?

6 MR. SIMPSON: This document, by the way,
7 has highlighting on it. I take it that was added
8 afterwards?

9 MR. O'CALLAGHAN: Yes. I gave you the
10 wrong copy. That is mine. Here is an unhighlighted
11 copy.

12 THE WITNESS: Your question again is what?

13 BY MR. O'CALLAGHAN:

14 Q If you have seen this document before.

15 A I don't recall seeing this document before.

16 Q Do you know whether this is a document that
17 was prepared by ADFA?

18 A I do not know that it was a document
19 prepared by ADFA. It could have been, but I do not
20 know that.

21 Q Did you prepare any documents that
22 contained this type of information for the '92

1 campaign?

2 A I remember participating in efforts to
3 document the record of the Governor, and I do
4 remember questions coming up during the campaign
5 about this, and yes, I participated, but I'm not sure
6 I actually prepared myself documents. But I remember
7 there being questions about ADFA's employment of
8 underwriters and counsel during the 1992 campaign or
9 questions about that. Information was prepared, but
10 I don't think I actually prepared information.

11 Q Did you have any -- with regard to the 1992
12 campaign, did you have any discussions with anyone
13 who was involved in the underwritings that ADFA
14 undertook during the 1983-1986 time period?

15 A Ask that question one more time.

16 MR. PORTNOY: With respect to the subject
17 of the underwritings?

18 MR. O'CALLAGHAN: Yes, with respect to the
19 subject of the underwritings.

20 BY MR. O'CALLAGHAN:

21 Q Anyone involved in the underwritings in
22 1983 through '86 with regard to the underwritings

1 that took place?

2 A Did I have any discussions with anyone
3 regarding?

4 Q Underwritings undertaken by ADFA in 1983
5 through 1986, anyone who was involved in those
6 underwritings.

7 A Not that I recall.

8 Q During the period 1983 through 1986, were
9 you familiar with the firm Collins, Locke & Lasater,
10 which later became Lasater & Company?

11 A Yes.

12 Q How were you familiar with that firm?

13 A It was an investment banking firm in Little
14 Rock, and I knew of most of the investment banking
15 firms in Little Rock and probably most of them in the
16 state.

17 Q Were you familiar with anyone who was
18 employed at the firm?

19 A Familiar with anyone who was employed at
20 the firm?

21 MR. SIMPSON: What do you mean by
22 "familiar"?

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1 BY MR. O'CALLAGHAN:

2 Q Do you know anyone who worked there?

3 A Yes. There was one person I knew, and I
4 can't recall his name right now. I can't think of
5 his name.

6 Q Do you know how you knew the person at the
7 firm that you knew?

8 A Each firm, as I remember it, had
9 individuals who would work, particularly on housing
10 or industrial development or other kinds of municipal
11 issues. So, I knew the individual as being the
12 person who represented that investment banking firm.

13 Q Was the person you knew at Collins, Locke &
14 Lasater and Lasater & Company named Michael Drake?

15 A Yes.

16 Q While you were at the Governor's office,
17 how much contact did you have with Michael Drake?

18 A Not very much that I remember.

19 Q Did you ever have any meetings with him?

20 A I don't recall any meetings with him, but I
21 could have.

22 Q Did you see him at ADFA board meetings that

1 you attended?

2 A I remember seeing him at ADFA board
3 meetings, yes.

4 Q Was your office located in the state
5 capitol?

6 A When I was with the Governor's office?

7 Q Yes.

8 A Yes.

9 Q Did you ever see Mr. Drake at your offices
10 at the state capitol building?

11 A I don't recall seeing Mr. Drake at my
12 office in the capitol building.

13 Q Did you ever go over to Lasater & Company?

14 A I think I remember visiting Lasater &
15 Company once, yes.

16 Q When did that occur?

17 A I don't remember specifically.

18 Q Do you remember the year it occurred, what
19 year it occurred?

20 A No, I sure don't.

21 Q Sometime between 1983 and 1986?

22 A Well, I know it would be sometime between

1 1983 and 1989. I know that. Because that is the
2 time I was in the Governor's office. I don't
3 remember specifically when it was. I visited a
4 number of the investment banking offices in Little
5 Rock, and even out of Little Rock, I believe. But I
6 don't remember specifically what years I did that.

7 Q I can represent to you you started work in
8 the Governor's office in January '83; right?

9 A Correct.

10 Q I believe the firm was sold in October
11 1986.

12 A I don't remember when it was sold. I don't
13 remember.

14 Q What was the purpose of your visit to
15 Lasater & Company?

16 A Courtesy visit.

17 Q Who did you meet with when you went over
18 there?

19 A I don't remember. I don't remember
20 specifically.

21 Q Did you meet with Dan Lasater when you were
22 over there?

1 A I don't remember meeting with Dan Lasater.

2 Q Did you meet with any of the principals of
3 the company?

4 A I don't remember specifically who I met
5 with.

6 Q Generally when you went to visit
7 underwriting firms, would you meet with management or
8 would you meet with salesmen? Who would you meet
9 with?

10 A As I remember, when I would go visit the
11 firms, it would usually be a principal and -- when
12 you say salesmen, I didn't meet with salesmen,
13 necessarily. I met with people who structured bond
14 issues and then usually a principal. But I rarely
15 met with bond salesmen.

16 Q When you went over to Lasater & Company,
17 was there anyone else from the Governor's office with
18 you?

19 A I don't remember that there was.

20 Q Do you remember if the Governor was with
21 you when you went over there?

22 A I remember that the Governor was not with

1 me when I went there.

2 Q Did you discuss Lasater & Company's
3 participation in ADFA bond underwritings when you
4 went over to Lasater & Company?

5 A No, I don't remember discussing that.
6 Courtesy visits -- again, I made it a point of just
7 visiting firms who were in the state, and usually it
8 was just a courtesy visit. I didn't discuss bond
9 issues with the agencies or their principals, no.

10 Q What would you generally discuss with the
11 underwriters when you went over to pay your courtesy
12 visits?

13 A I think, as I remember it, the firms would
14 always just as a general rule talk about the business
15 they had done, their capability, the number of people
16 they had working for them, those kinds of things.
17 Basically it would be an investment banker talking
18 about their capability. They would always want to
19 describe that, basically.

20 Q Is that what happened when you went to
21 Lasater & Company?

22 A I'm sure it was, but I don't remember

1 specifically. I don't remember out of the ones I
2 visited any specific discussion, but I know that is
3 generally what would happen; they would talk about
4 their capability.

5 Q Do you recall what time of year it was when
6 you went over there, whether it was summer or winter?

7 A I don't even remember the year.

8 Q You don't remember the season, whether you
9 were wearing an overcoat?

10 A No, I don't.

11 Q Were you familiar with a person at Lasater
12 & Company by the name of Patsy Thomasson?

13 A No, not at that time. I know Patsy
14 Thomasson now.

15 Q But at the time you were at the Governor's
16 office you didn't know her, didn't know who she was?

17 A I knew who she was.

18 Q How did you know who she was?

19 A She was -- when I first knew who she was,
20 she was on the Highway Commission. I don't know what
21 year that was. That's how I knew who Patsy Thomasson
22 was, whatever year she was on the Highway Commission,

1 because, as I remember, there were several newspaper
2 stories about her going on the Highway Commission.
3 Whatever year that happened is the year I knew who
4 Patsy Thomasson was.

5 Q Other than the one visit to Lasater &
6 Company you just described, did you visit there any
7 other times?

8 A I don't recall visiting there any other
9 time.

10 Q Do you recall a meeting with anyone from
11 Lasater & Company at your offices at the state
12 capitol?

13 A No, I don't.

14 Q Do you recall a meeting with anyone from
15 Lasater & Company in the governor's mansion?

16 A No, I don't.

17 Q Did you meet with Mr. Drake in any places
18 other than ADFA board meetings and at Lasater &
19 Company or your offices or the Governor's offices?

20 A When you say meet with him at ADFA board
21 meetings, what do you mean? I don't think I said I
22 met with him.

1 Q The question wasn't very clear. Any
2 contact you had with Mr. Drake. Did you meet with
3 him anywhere or did you see him anywhere outside of
4 ADFA board meetings?

5 A I remember over the decade of the '80s
6 seeing Michael Drake at a number of events. It may
7 be a chamber banquet, it could be a Kiwanis Club, it
8 could be a political rally, those kinds of things
9 where there were events going on. I can't place it,
10 but I can imagine over a decade it probably happened
11 a number of times, yes.

12 Q Did you have any meetings with Mr. Drake
13 with regard to Lasater & Company's interest in having
14 an opportunity to compete for state bond business?

15 A I don't specifically remember an instance
16 where Michael was discussing that, but he could have,
17 as other bankers did. He could have called me, but I
18 don't specifically remember meeting with him. He
19 could have called, as other bankers did, asking about
20 opportunities to compete for ADFA bond business.

21 Q Do you recall that he did make calls to
22 you?

1 A I don't recall specifically that he did,
2 but I wouldn't be surprised because everybody else
3 did.

4 Q Did you have any communications with
5 Mr. Drake with regard to Lasater & Company receiving
6 bond business, state bond business other than ADFA
7 bond deals?

8 A As I said, I don't recall specifically
9 talking with him about ADFA bond business, but
10 because I think he was one of their bond structurers
11 or people who were trying to acquire business, he
12 probably did try to call.

13 Then you asked about other than ADFA bond
14 business. I don't remember any discussions with him
15 about anything else.

16 Q Did you ever meet with Dan Lasater?

17 A I don't remember ever meeting with Dan
18 Lasater.

19 Q This may help refresh your recollection. I
20 want to show you a document DKS N 027163. It is a
21 one-page document. I have a copy for you and for
22 your counsel as well.

1 Let me know when you have had a chance to
2 review it and I will ask you some questions.

3 (Witness examined the document.)

4 A Okay.

5 Q The document I just handed you is a route
6 slip on state of Arkansas Office of the Governor
7 stationery.

8 A Yes.

9 Q It has some handwritten notations on it.

10 A Yes.

11 Q Do you recognize the handwriting on this
12 document?

13 A That is my handwriting.

14 Q Can you read the date for me? Do you know
15 what that says there?

16 A I think it is 5/2/85. I believe that is a
17 5. I'm not positive.

18 Q I think it says "To BC/Betsey/CG"; is that
19 right? It has a check mark through the B, it looks
20 like.

21 A I see BC and Betsey. I don't know what
22 this other is right here.

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1 Q Is that your handwriting, the CG with the
2 circle on it, or do you think that was added later?

3 A I can't tell. I can't tell whether it is
4 mine. I guess I have a slash on the end of it, so it
5 probably is my handwriting. That probably is my
6 handwriting because I have a slash on the end, but I
7 don't know what that is. My handwriting has gone
8 cold on me over the last 10 or 11 years.

9 Q What does BC refer to?

10 A Bill Clinton.

11 Q And Betsey?

12 A Betsey Wright.

13 Q And CG?

14 A It has got to be somebody in the Governor's
15 office, I guess. I don't recall right now.

16 Q Then it says "From Nash." And that's you?

17 A That's me.

18 MR. PORTNOY: Are you certain that says
19 "CG"? Just because it is not entirely clear from my
20 review that that is even a G.

21 THE WITNESS: I'm not sure what it is. I
22 can't tell what this is. I don't recognize that. I

1 recognize the BC and the Betsey and the slash, but I
2 don't know what this is.

3 BY MR. O'CALLAGHAN:

4 Q Okay. We will move on. Maybe when we look
5 at the document, it will refresh your recollection
6 what that might stand for.

7 A Okay.

8 Q The remarks -- why don't you read it
9 because it is your handwriting. I don't want to
10 misstate anything. Read what the handwritten text is
11 that says "Remarks." That is your handwriting?

12 A Yes. "Dan Lasater gave me this letter when
13 I met with him on Wednesday for lunch. Bell is not
14 my kind of person. He has always caused the agency
15 problems."

16 Q After agency it says "AHDA" in
17 parentheses?

18 A Yes, it says "AHDA" in parentheses.

19 Q Do you recall writing this note?

20 A I really don't.

21 Q Does this refresh your recollection as to
22 whether you ever met with Dan Lasater?

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1 A It does not. I still don't remember having
2 lunch with him. I guess if I wrote this maybe I did,
3 but I don't remember having lunch with Dan Lasater,
4 no.

5 Q Did you play any role in advising Governor
6 Clinton with regard to who should be appointed to the
7 ADFA board?

8 A I remember that I did, yes.

9 Q Do you recall a meeting with Dan Lasater
10 with regard to his recommendations or thoughts on
11 possible ADFA board appointments?

12 A No, I do not.

13 Q Do you know who the Bell is that is
14 referred to in this note?

15 A No, I don't remember.

16 Q Do you recall whether there was ever a Bell
17 that was being considered for appointment to the ADFA
18 board?

19 A Not that I can remember.

20 Q Do you remember Dan Lasater ever giving you
21 a letter at a lunch? Does that help at all?

22 A I don't remember that.

1 Q Do you recall anyone by the name of Bell
2 who had caused AHDA or ADFA problems, Jim Tom Bell or
3 Joe Tom Bell?

4 A Joe Bell? Or Jim Tom? I know a Joe Bell
5 and I think I know a Jim Tom Bell. I think they are
6 lawyers.

7 Q Do you recall whether Mr. Lasater ever made
8 a recommendation for either one of those people to be
9 an ADFA board member?

10 A Not that I recall, no.

11 Q Do you recall whether either one of them
12 caused the agency problems pursuant to your note?
13 First of all, independent of your note.

14 A I remember something, Jim Tom Bell -- I'm
15 not sure his name is Jim Tom Bell. But there are two
16 Bells. I think Jim Tom Bell at one time -- Jim Tom
17 Bell was a mortgage banker, not a lawyer. I remember
18 vaguely he was a mortgage banker and he would -- I
19 vaguely remember some problems, but I don't know they
20 were as a mortgage banker working with the agency. I
21 vaguely remember that.

22 Q You vaguely remember there were some

1 problems with him?

2 A Yes, with Jim Tom Bell.

3 Q Do you remember whether you expressed that
4 he wasn't your kind of person to the Governor?

5 A I don't remember that.

6 Q Did you ever have any phone conversations
7 with Dan Lasater?

8 A I don't recall any phone conversations with
9 Dan Lasater.

10 Q Do you recall anyone by the name of Kathy
11 Gaines who worked in the Governor's office?

12 A I vaguely remember that name, yes.

13 Q Do you recall whether she was someone who
14 worked on different board appointments or agency
15 appointments?

16 A I don't know what her job was, but I
17 remember a Gaines working in the Governor's office at
18 some time during the '80s. But I don't remember
19 specifically.

20 Q Did you review recommendations for ADFA
21 board appointments that were sent to the Governor
22 from people in the investment banking community?

1 A I probably would have, yes.

2 Q With regard to possible board appointments,
3 were you the point person in that area?

4 A No.

5 Q Who would have been in charge of that,
6 advising the Governor on that?

7 A During what period of time?

8 Q The time you were in the Governor's
9 office. We can limit it to '83 to '86.

10 A I'm not sure I would remember who during
11 that period of time. I was trying to guess about
12 everybody that would be during the whole period I was
13 there -- not guess but see who I remember.

14 Maurice Smith, Craig Smith, and there
15 probably were others. I just don't remember at this
16 point.

17 Q Who was Craig Smith?

18 A He did boards and commissions for the
19 Governor at some time during the '80s. I think it
20 was late '80s, although I'm not positive on that.

21 Q During the period 1983 through 1986, did
22 you have discussions with the different underwriting

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1 firms with regard to who they were recommending for
2 ADFA board appointments?

3 A Not that I remember.

4 Q Do you recall whether -- I probably should
5 have asked this question first. Do you recall
6 whether underwriters presented recommendations for
7 ADFA board appointments to the Governor's office?

8 A I would guess that they did, yes, but I
9 can't remember specifically. But I would imagine it
10 would be something that they would make
11 recommendations on.

12 Q Who would have reviewed those?

13 A Whoever was doing boards and commissions at
14 the time they were submitted.

15 Q Would you have reviewed them also?

16 A Not on a regular basis. But because I was
17 a liaison to ADFA, I would be concerned about who was
18 going to be a board member.

19 Q Did the Governor turn to you for advice for
20 helping him select who the different board members
21 would be?

22 A He would -- he has asked for my advice on

1 board members for ADFA, yes, I do remember that. But
2 I don't remember specifically any particular name or
3 time.

4 MR. O'CALLAGHAN: Do you mind if we take a
5 quick break here?

6 MR. SIMPSON: Sure.

7 (Recess.)

8 BY MR. O'CALLAGHAN:

9 Q Mr. Nash, are you aware whether Dan Lasater
10 made recommendations to the Governor as to who he
11 thought would be appropriate people to appoint to the
12 ADFA board?

13 A I don't specifically remember a
14 recommendation that he made, but he could have.

15 Q I would like to show you a document Bates
16 stamps DKSJN 026606. It is a one-page document on
17 Lasater, Inc. letterhead dated May 1, 1985 and
18 addressed to the Honorable Bill Clinton signed by Dan
19 R. Lasater.

20 I have a copy for your counsel as well.

21 (Witness examined the document.)

22 A Okay.

1 Q The first question is, have you seen this
2 letter before?

3 A I don't recall having seen it before, but I
4 could have.

5 Q I'm just going to read the first sentence
6 of the letter for the record. "Dear Governor
7 Clinton, it is a great pleasure that we write to you
8 in support of the appointment of Mort Hardwicke to
9 the position of board member, Arkansas Development
10 Finance Authority."

11 Was this the type of letter that generally
12 would have been brought to your attention as liaison
13 to ADFA?

14 A Would it have been generally brought to my
15 attention?

16 Q Is this the type of thing that would have
17 been sent to you or put on your desk?

18 A I would be concerned about anyone who was
19 being recommended to go on a board of an agency that
20 I was liaison with, and I would have been interested
21 in this letter.

22 Q Other than a general interest, seeing who

1 was appointed to the board, is there any other
2 specific reason why you would be interested in this
3 letter?

4 A No. When you say general interest, again,
5 if I am liaison to an agency and there is a board, I
6 would want to know who is on the board. Other than
7 wanting to know who is going to be on the board,
8 because it is somebody I would probably -- the board
9 members make the policy for the agency, so I would be
10 concerned about it. But I can't think of another
11 reason that I would be concerned about it.

12 Q Specifically did you have any special
13 interest in any recommendations that might have been
14 presented by Mr. Lasater?

15 A No, I don't think I would have any special
16 interest in anything recommended by him.

17 Q Were you ever told to pay any special
18 attention to recommendations made by Mr. Lasater?

19 A No, I don't remember being told to give any
20 special attention to any recommendation made by Dan
21 Lasater.

22 Q Were you told to look out for

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1 recommendations made by Mr. Lasater?

2 A Told by?

3 Q By anyone in the Governor's office.

4 A No.

5 Q Including the Governor.

6 A No, I wasn't. I don't remember any special
7 attention given to a recommendation by Lasater over
8 anybody else who would make a recommendation.

9 Q During the time that you were working in
10 the Governor's office, did you have any conversations
11 with the Governor about Dan Lasater?

12 A I don't recall any, but again, I could
13 have.

14 Q When you were at the Governor's office,
15 during that time period, did Governor Clinton know
16 Dan Lasater?

17 A During the time that I was in the
18 Governor's office did --

19 Q Did the Governor know Dan Lasater?

20 A I assume he did.

21 Q Why do you assume that?

22 A Press accounts, general knowledge.

1 Q Nothing other than that?

2 A Nothing other than that.

3 Q Again, speaking about the same time period,
4 up until -- through October 1986, '83 through October
5 '86, did the Governor have any meetings with
6 Mr. Lasater?

7 A I am not aware of any meetings that the
8 Governor had with Mr. Lasater in this period of time,
9 '83 to '86. Again, I was there from '83 to '89.
10 So, these time periods that you are referring to I
11 can't place that time period in my mind.

12 I don't recall during the time I was at the
13 Governor's office Mr. Lasater meeting with
14 Mr. Clinton, Governor Clinton, that I am aware of or
15 I can remember.

16 Q Are you aware of any phone conversations
17 that they had?

18 A No, I am not.

19 Q Are you aware of any written correspondence
20 they exchanged?

21 A I don't remember any.

22 Q If Mr. Lasater sent the Governor a letter

1 regarding Lasater & Company's participation in state
2 bond underwritings, would that letter have gone
3 through you first or would it have gone directly to
4 the Governor?

5 MR. SIMPSON: Object to the form; lack of
6 foundation.

7 MR. PORTNOY: If you know and if there is a
8 general practice.

9 THE WITNESS: I don't remember what the
10 general practice was in the Governor's office of
11 letters coming to him from Dan Lasater. I don't know
12 what the normal routing -- I don't remember what the
13 normal routing would have been.

14 BY MR. O'CALLAGHAN:

15 Q Do you know whether there was a specific
16 routing procedure with regard to correspondence from
17 Dan Lasater?

18 MR. SIMPSON: A procedure regarding --

19 BY MR. O'CALLAGHAN:

20 Q Correspondence from Mr. Lasater.

21 A I do not know.

22 Q Did you ever see any correspondence from

1 Dan Lasater to the Governor?

2 A I don't remember, but I could have.

3 Q I would like to show you a multipage
4 document. The first two pages are a letter on
5 Lasater & Company letterhead dated February 15, 1985
6 addressed to the Honorable Bill Clinton, governor.
7 The second page is signed by it says Dan R. Lasater.

8 The third page looks like it is a copy of
9 the envelope in which the letter was sent and it
10 contains some handwritten notes. It has an address,
11 Honorable Bill Clinton, governor, state capitol,
12 Little Rock, Arkansas. The Bates are DKS N 027573 to
13 DKS N 027574. The third page I refer to is Bates
14 27572. So, I guess they were produced with the third
15 page being first.

16 Take a moment to review the letter.

17 (Witness examined the document.)

18 A Okay.

19 Q The first question is with regard to the
20 Bates stamps 27573 and 27574, the letter on Lasater &
21 Company letterhead, I ask you whether you have ever
22 seen that before.

1 A I don't remember seeing it, but I could
2 have, in fact, probably would. The date is '85. I
3 don't remember seeing it, but it is the kind of
4 letter because it deals with ADFA that I probably
5 would see.

6 Q The first sentence says "Thank you very
7 much for the opportunity to sit down and visit with
8 you regarding the many issues facing Arkansas and
9 relevant to areas in which Lasater & Company can
10 assist you in your efforts to promote and develop
11 Arkansas."

12 Do you have any knowledge of a meeting that
13 the Governor had with Mr. Lasater in or around
14 February 10, 1985?

15 A No, I don't recall a meeting that you are
16 referring to here.

17 Q Then the next sentence, "In order to
18 maximize our relationship, I believe that it is
19 essential that we take some positive steps to set up
20 specific lines of communication to enable both our
21 understanding and to make sure that those lines are
22 kept open and functioning."

1 Were you ever aware -- did the Governor
2 ever relate to you this sentiment expressed by
3 Mr. Lasater with regard to opening up lines of
4 communication between Mr. Lasater and the Governor?

5 A I don't recall ever discussing this
6 particular point with the Governor, no, I don't.

7 Q So, the Governor never told you that
8 Mr. Lasater approached him about opening up lines of
9 communication?

10 A I don't remember him saying anything to me
11 about it.

12 Q Then the next sentence reads "To begin, let
13 me suggest that Lasater & Company be advised of all
14 financing proposals affecting the state of Arkansas
15 and suggest that your contact person or company in
16 descending order is Joe Morfoglio, Michael Drake and
17 Dan Moudy."

18 Were you ever told that Mr. Lasater made a
19 suggestion that Lasater & Company be advised of all
20 financing proposals affecting the state of Arkansas
21 by the Governor?

22 A No, I was not, not that I remember at all.

1 Q Does this seem like an unusual request to
2 you?

3 A No, because I think the reason is bankers
4 all the time would ask about that, and they would
5 always be referred to the agencies, whatever
6 particular agency was doing the financing.

7 Q Have you ever heard of a Joe Morfoglio
8 before?

9 A I don't think I have.

10 Q We have talked about Michael Drake before.

11 A I know who Michael Drake is. He was
12 Lasater & Company's representative, I guess.

13 Q And the third person, Dan Moudy.

14 A I don't recall that name.

15 Q The next paragraph reads "Secondly, we
16 discussed the appointment of Donny Spears to the
17 Arkansas Housing Board and I have confirmed our
18 understanding regarding the employment in my letter
19 of January 23, 1985 and I want to again reaffirm our
20 interest and desire in seeing Mr. Spears in this
21 position."

22 Did you have any conversations with the

1 Governor with regard to Donny Spears's appointment to
2 the ADFA board?

3 A Not that I remember, but I could have if
4 there was a recommendation.

5 Q Does this refresh your recollection whether
6 you had any conversations with the Governor with
7 regard to recommendations to the board made by
8 Mr. Lasater?

9 A No, this letter does not refresh my memory
10 in that regard.

11 Q So you don't remember having any
12 conversations of that nature?

13 A I don't remember having any conversations
14 with the Governor about Donny Spears; is that what
15 you are asking me?

16 Q Recommendations made by Mr. Lasater, is the
17 question.

18 A I don't recall. If any were made, I would
19 have in the normal course of business had something
20 to say about it. But I don't recall this.

21 Q During this time period, if Mr. Lasater
22 made a recommendation for appointment to the ADFA

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1 board, how much weight would you have given that
2 recommendation?

3 A No more weight than coming from any other
4 investment banker in the state.

5 Q Was Lasater & Company -- I will withdraw
6 that question.

7 I would like to have you take a look at the
8 next page, 27574.

9 A Okay.

10 Q The second to the last paragraph reads
11 "Finally, I believe it would serve us both well to
12 have regular monthly meetings between the two of us
13 to discuss the effects of the economy on Arkansas."

14 Are you familiar with a request made by
15 Mr. Lasater to have monthly meetings with the
16 Governor?

17 A No, I don't remember a request to have
18 monthly meetings with the Governor from Lasater, not
19 specifically.

20 Q Are you aware whether the Governor ever had
21 monthly meetings with Mr. Lasater?

22 A No, I'm not aware that he had monthly

1 meetings with Mr. Lasater.

2 Q Did the Governor have regular meetings with
3 members of any underwriting firms during this time
4 period?

5 A No, I don't remember him having regular
6 meetings with any underwriters. People were always
7 asking for meetings, not just underwriters.
8 Everybody wanted to meet with the Governor. But I do
9 not remember a regular meeting with any underwriters
10 with the Governor.

11 Q Under Dan R. Lasater, the signature says
12 "Dan" and then there is another signature line that
13 says Rick L. Knox on it and it reads "president."
14 Are you familiar with Rick Knox? Do you know who he
15 is?

16 A No, I'm not familiar with Rick Knox.

17 Q I would like to direct your attention to
18 the document Bates stamped 27572. I believe it is a
19 photostat of the envelope from Lasater & Company.

20 A Yes.

21 Q Are you familiar with any of the writing,
22 the handwritten writing that appears on that page?

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1 A The only thing that I would be familiar
2 with would be I think MS is Maurice Smith, "/BW"
3 would probably be Betsey Wright. And "B" I assume is
4 Bill Clinton. That's the only thing I can --

5 Q So, none of the writing that appears here
6 is your handwriting?

7 A Is my handwriting?

8 Q Yes.

9 A Well, I don't think so. I don't recognize
10 anything there as my handwriting.

11 Q Thank you very much.

12 In or around January 1985, the beginning of
13 January 1985, did you attend a presentation given by
14 E.F. Hutton & Company and Lasater & Company at the
15 Legacy Hotel?

16 A I don't recall attending a meeting like
17 that.

18 Q I would like to show you a multipage
19 document. I'm not going to ask you about the
20 substance of what is contained within it, otherwise
21 we would be here until tomorrow morning, probably.

22 The cover page reads "Presentation state of

1 Arkansas regarding financing structures and
2 investment banking services, January 10, 1985." It
3 says "E.F. Hutton & Company, Inc., Lasater &
4 Company. DKS N 027487 through DKS N 027562 is the
5 Bates range for this document.

6 Take a moment to take a quick look at it.
7 Look at the cover page and the table of contents and
8 flip through the body of it. I will ask you if you
9 are familiar with it and some other general
10 questions.

11 A If I am familiar with the document?

12 Q Yes.

13 (Witness examined the document.)

14 A I don't specifically remember this
15 document, but I could have looked at it. This is not
16 a bond proposal. It looks like it is a marketing
17 document, to me. I have seen probably hundreds, if
18 not -- well, at least hundreds, hundreds and hundreds
19 of these kinds of things.

20 Q On and around January 10, 1985, do you
21 recall -- does this help refresh your recollection
22 whether you attended a presentation given by E.F.

1 Hutton and Lasater & Company with regard to financing
2 structures and investment banking services they
3 wanted to provide to the state?

4 A I don't remember. I don't remember. This
5 doesn't refresh my memory that I attended a meeting
6 on January 10, 1985, but I could have. I probably
7 attended probably lots of them.

8 Q Do you recall attending a meeting like this
9 with the Governor?

10 A I don't. I don't remember that.

11 Q Did he typically attend meetings of this
12 nature?

13 A Did he typically attend meetings of this
14 nature? You mean where people were --

15 Q Underwriting firms were making pitches to
16 the state regarding financing structures and
17 providing investment banking services.

18 A Typically, if you mean by that on a regular
19 basis, I don't remember that he did. But I'm sure
20 that I probably sat in on a number. But I can't
21 remember that there were particular investment
22 bankers. But presentations of all types, probably

1 thousands over the decade.

2 Q That you attended?

3 A Yes, over the decade. Not investment
4 banking but various types.

5 Q Did the Governor, to your knowledge, ever
6 attend meetings with investment bankers where they
7 were proposing to do investment banking services for
8 the state?

9 A Not that I'm aware of. I don't remember
10 where someone was specifically trying to do a
11 particular transaction. But I can remember over the
12 years that there may have been presentations made
13 where people were trying to talk about their
14 companies. But I can't tell you the dates, times. I
15 don't know. And I don't remember this one.

16 Q If the Governor attended a meeting or a
17 presentation was put on by underwriters who were
18 pitching their companies to do underwriting business
19 and investment banking services for the state, if the
20 Governor attended a meeting like that, would you have
21 been notified of that?

22 A When I was in the Governor's office, if

1 there was an investment banker who wanted to talk
2 about their company, typically I would be notified of
3 it, yes. But I also don't think that the Governor
4 would sit through a presentation -- I'm just thumbing
5 through this pretty thick document, and I don't have
6 any idea what this presentation was like.

7 But typically he would not sit through a
8 long presentation. There may be a courtesy visit if
9 somebody was coming through. There may be a courtesy
10 visit with him and then some presentation to an
11 affected agency.

12 Q As a general practice, if the Governor had
13 a meeting with an underwriter or a representative
14 from an underwriting firm, would you participate in
15 that meeting?

16 A Yes, as a general rule I would. If I was
17 able, I would do so.

18 (Recess.)

19 BY MR. O'CALLAGHAN:

20 Q Mr. Nash, are you familiar or do you know a
21 person by the name of George Wright?

22 A Yes, I do.

1 Q How do you know George Wright?

2 A George Wright was a board member of either
3 the Arkansas Housing Development Agency and/or the
4 Arkansas Development Finance Authority. That's how I
5 know him.

6 Q Was your contact with him limited to
7 matters dealing with ADFA?

8 A Yes, primarily. George -- the other
9 contact would have had to do with campaigns, campaign
10 rally, campaign speech, that kind of thing.

11 Q Did Mr. Wright know the Governor? This is
12 again during the time you were at the governor's
13 office.

14 A During the time I was at the governor's
15 office, yes, my understanding is that George knew
16 Governor Clinton.

17 Q Was he friends with the Governor?

18 A I don't know that he was a friend. I
19 assume he was. I want to say he grew up in the same
20 hometown, although I'm not positive. I know George
21 is from south Arkansas. I'm not sure it is the same
22 hometown, but it could be.

1 Q I would like to show you a one-page
2 document, DKS N 01310. It is a page, I believe, out
3 of Governor Clinton's schedule for the date December
4 19, 1985, which is a Thursday. There is a 3:00
5 meeting there which notes "Appointment with Wooten
6 Epes, George Wright and Mary Davenport." There is a
7 slash and it says "Nash" in capital letters.

8 A Yes.

9 Q Do you recall meeting with Mr. Epes,
10 Mr. Wright and Ms. Davenport with the Governor in
11 December 1985?

12 A No, I don't recall. I don't recall a
13 meeting on December 19, 1985 with Wooten Epes, George
14 Wright and Mary Davenport. I don't know who Mary
15 Davenport is. I don't recall this meeting.

16 Q Was there a Mary Davenport who was an ADFA
17 board member at any time?

18 A There was a Davenport who was an ADFA board
19 member.

20 Q What was that person's name?

21 A Margaret Davenport.

22 Q Do you recall meeting with Wooten Epes,

1 George Wright and Margaret Davenport in December of
2 '85?

3 A No, I don't.

4 Q Looking at other parts of the schedule,
5 there is also listed an 11:00 meeting appointment
6 with Allen Fitzwater, Andreas Gaskins and it has a
7 "/Nash" and a 12:00 meeting, "Arkansas, Little Rock
8 Chamber of Commerce speech" and it says "/Nash" after
9 that.

10 Looking at those two meetings, does that
11 refresh your recollection whether you had a meeting
12 with Mr. Epes, Mr. Wright, Ms. Davenport in December
13 where you remember doing all three of those things in
14 one day?

15 A No, I do not.

16 MR. PORTNOY: Off the record for a second.
17 (Discussion off the record.)

18 BY MR. O'CALLAGHAN:

19 Q The entries I just described to you where
20 it said "/Nash" in capital letters, do you know what
21 that refers to?

22 A It could mean any number of things. It

1 could mean that this was the person who set the
2 meeting up. It could mean this was the person who
3 attended the meeting, or it could mean this was the
4 person who was to follow up on a meeting. It could
5 mean any one of those things.

6 Q Do you recall on or around December 19,
7 1985 whether the Governor met with Mr. Epes,
8 Mr. Wright and Ms. Davenport?

9 A No, I don't recall that.

10 Q I would like to show you a document Bates
11 stamped DKSX 026453.

12 A Yes.

13 Q I have a copy for counsel as well.
14 (Witness examined the document.)

15 A Okay.

16 Q What I just showed you is a one-page
17 document on Office of the Governor memorandum
18 letterhead, I guess. There is a series of
19 handwritten notes on it. Have you seen this document
20 before?

21 A This is my writing, so I know I have seen
22 it before.

1 MR. SIMPSON: When you say this is your
2 writing, you are referring to the whole document?

3 THE WITNESS: I am referring to my
4 writing -- I don't know about the scribbling on it.
5 I can't be for sure that I have seen this or not. I
6 know I have seen the part that says "To BW from Nash,
7 ADFA" and the heavy dark print, but the scribbling
8 all around, I'm not sure I have seen any of this.

9 BY MR. O'CALLAGHAN:

10 Q Do you recognize any of the handwriting
11 that appears anywhere else on the page? Start at the
12 upper right-hand corner, a 1 with a Nash and a 2 with
13 an MAS and "Nash" has a check mark through it.

14 A Do I recognize this writing?

15 Q Yes.

16 A I'm not positive I do. I'm not positive I
17 recognize this writing. I do recognize this writing
18 here, "To MAS, George says okay on flexibility,
19 Nash." That's my writing as well as the writing in
20 the heavy, dark print.

21 Q How about the writing that appears next to
22 "BW" which says "Gov" with a check mark through it.

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1 A Show me which writing.

2 Q Next to the BW, where it says "To BW" and
3 it appears to say "Gov" with a check mark through
4 it. Do you recognize the handwriting that says
5 "G-o-v"? Does that look like Betsey Wright's
6 handwriting?

7 A It could be Betsey Wright's handwriting,
8 yes. It probably is. I am not saying I recognize
9 it. But it looks like her writing. But it never
10 went to her. So she could have wrote on it. This
11 may be Betsey Wright's writing in the top right-hand
12 corner also, because it looks similar.

13 Q How about the writing that appears next to
14 "BW-Nash ADFA."

15 A That looks like Governor Clinton's
16 handwriting.

17 Q Are you familiar with his writing?

18 A Yes. Not that I can read it.

19 Q Can you read what it says there?

20 A The only thing I can see is "OK." The rest
21 of it I'm not quite sure. I believe the first two
22 letters are "OK." But I'm not sure I can tell you

1 what the rest of it is. I have always had a heck of
2 a time reading his writing.

3 Q This is my attempt to read it. If it
4 doesn't comport be your reading, let me know. "OK,
5 do it if he will be flexible on changing partners."

6 MR. SIMPSON: If you can read it.

7 THE WITNESS: I can't, I really can't.

8 BY MR. O'CALLAGHAN:

9 Q How about the writing in the bottom
10 right-hand corner. It says "Have Nash call, say Gov
11 will do except it puts three people in the LR area,
12 but if want for two years Gov will do the" --

13 A Something "you go off then."

14 Q Do you recognize that handwriting there?

15 A No.

16 Q How about the number 6433. Do you
17 recognize that handwriting? It is in a box?

18 A I see that. I think that is my
19 handwriting. The telephone number is my handwriting,
20 I think.

21 Q Do you recognize that phone number?

22 A No, I don't.

1 Q Do you recognize the 636 prefix?

2 A No, I don't.

3 Q If you could, could you read the text of
4 the note that appears in your handwriting?

5 A Sure. "Wooten told me that Wilmoth got his
6 reappointment letter to ADFA board. This reminded me
7 that George Wright is really interested in being
8 reappointed to ADFA board, said he only wanted to be
9 on a short period of time, one or two years, said he
10 would resign if BC needed a slot during his new
11 appointment period. If BC does not reappoint George,
12 he should," I assume this is call; there is a letter
13 missing "call and tell him. George is not a strong
14 member but he will do anything BC wants done."

15 Q With regard to the first sentence that says
16 "Wooten told me," does that refer to Wooten Epes?

17 A Yes.

18 Q With regard to the statement, the last
19 sentence, "George not a strong member but he will do
20 anything BC wants done," do you know what that refers
21 to?

22 A I think it refers to the fact that he will

1 go off if he needs to go off and stay on if he
2 decides he wants to keep him on.

3 Q How about the reference to "not a strong
4 member"?

5 A Let me think. I think that means technical
6 expertise in municipal finance.

7 Q With regard to the portion that reads
8 "George is not a strong member but he will do
9 anything BC wants done," do you know if that refers
10 to anything other than whether he will stay or leave
11 the board?

12 A No. It means that he will stay or leave
13 the board depending on what the Governor wanted him
14 to do, flexible.

15 Q Does that make any reference to how
16 Mr. Wright conducted himself as a member of the board
17 with regard to decisions on the ADFA board?

18 A No, that is not -- you were referring to
19 the statement in the last paragraph on this page?

20 Q Yes.

21 A No. As I remember, that means he was
22 flexible as it relates to going on or off the board,

1 even though he wanted to stay on.

2 Q During the time that you were in the
3 governor's office, did the Governor know Patsy
4 Thomasson?

5 A I don't know. I assume he knew her. She
6 was on the Highway Commission. I'm trying to think.
7 I guess she was on the Highway Commission when he was
8 in the governor's office, but I'm not sure. If she
9 was, he would have known her, because there are like
10 five Highway commissioners, so he would have known
11 her if she was on the commission while he was
12 governor.

13 Q Other than the fact that she was on the
14 Highway Commission, do you have any other knowledge
15 of him knowing her?

16 A No.

17 Q During the time that you were in the
18 governor's office, did it ever come to your attention
19 that Dan Lasater was involved in any type of criminal
20 activity?

21 A During the time I was in the governor's
22 office, I remember there was a newspaper account of

1 something related to drugs and Dan Lasater, but I do
2 not remember the year.

3 Now, I think it was between '83 and '89.
4 That's the time I was in the governor's office.
5 There was something in the newspaper about Dan
6 Lasater and drugs. As I remember, he was charged in
7 some way with something having to do with drugs.

8 Q Do you recall whether that was before
9 October 1986?

10 A I don't.

11 Q Other than any newspaper accounts, were you
12 aware that Mr. Lasater was involved in criminal
13 activity during the period 1983 through 1986?

14 A No, other than what I read in the
15 newspaper.

16 Q Again, during the time period 1983 through
17 1986, are you aware of whether anyone in the
18 governor's office had knowledge that Dan Lasater was
19 involved in criminal activity?

20 A No, I'm not.

21 Q Are you aware of any contributions made by
22 anyone at Lasater & Company to either Governor

1 Clinton's gubernatorial campaigns or inaugurals?

2 A No, other than I know from time to time in
3 the newspaper there is a printing of contributors to
4 the various candidates' races. I always read those.
5 If something was in there, then I did. But I don't
6 specifically remember it other than that kind of
7 knowledge.

8 Q During the time when you were serving as
9 liaison to ADFA, were you ever advised by anybody
10 that Mr. Lasater was a big contributor to either the
11 Governor's gubernatorial or inaugural campaigns?

12 A No.

13 Q Do you have any knowledge of whether
14 Lasater & Company employees were encouraged to give
15 contributions to Governor Clinton's gubernatorial
16 campaigns?

17 A Do I have any knowledge whether they were
18 advised to do so?

19 Q Encouraged to do so.

20 A No, I have no knowledge of that.

21 Q Do you have any knowledge of any trips that
22 Governor Clinton took on aircraft owned by Lasater &

1 Company or by Dan Lasater?

2 A No, I have no knowledge of that.

3 Q Did you ever fly in a Lasater-owned
4 airplane or jet?

5 A No, I don't think I ever flew on a Lasater
6 airplane or jet.

7 Q Are you aware of any attempts made by any
8 underwriting firms to provide the Governor with money
9 in connection with ADFA bond underwritings?

10 A No.

11 Q Do you know or have you heard whether the
12 Governor ever received money from bond underwriters
13 in connection with ADFA bond underwritings?

14 A No.

15 Q During your time in the governor's office,
16 did it ever come to your attention that the firm of
17 Collins, Locke & Lasater or Lasater & Company
18 experienced disciplinary problems with regard to the
19 NASD?

20 A I don't know -- I guess it was probably in
21 the governor's office. There was a newspaper account
22 of some problems the NASD had with that company, but

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1 I don't remember the year. But I do think it was
2 while I was still in the governor's office.

3 Q Do you recall what those problems were that
4 were identified in the article?

5 A I don't.

6 Q Is that something you would have
7 investigated in your capacity as a liaison to ADFA?

8 A No. I wouldn't have investigated it, no.

9 Q Have you ever heard that Lasater & Company
10 used their involvement with ADFA bond underwritings
11 as a vehicle for laundering money?

12 A Have I ever heard that? There may have
13 been something in the newspaper, an allegation like
14 that, but if I did, it was in a newspaper article.
15 But I don't specifically even remember that.

16 Q Anything beyond that?

17 A No.

18 MR. PORTNOY: I think actually the
19 testimony was that he is not even sure whether he
20 read that in a newspaper article.

21 THE WITNESS: Yes, I'm not even sure I
22 did. You said other than that. I'm not sure that I

1 did.

2 BY MR. O'CALLAGHAN:

3 Q Have you heard allegations to that effect?

4 A No.

5 Q Other than you think you might have read
6 something about it in the newspaper?

7 A There were a rash of newspaper articles at
8 one time in the '80s. I don't remember which years
9 and I don't remember specifically what it was about,
10 but I remember some of them were about Lasater. But
11 I can't remember specifically about this allegation
12 you just referred to.

13 Q No specific recollection with regard to any
14 comments or claims made about money laundering?

15 A I can't remember that specifically.

16 Q Are you aware whether Madison Guaranty
17 Savings & Loan maintained any accounts at Lasater &
18 Company?

19 A No.

20 Q Are you aware of any accounts maintained by
21 Lasater & Company at Madison Guaranty Savings & Loan?

22 A No.

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1 MR. O'CALLAGHAN: Let's take another quick
2 break here. I think I am going to move on from the
3 ADFA stuff.

4 (Recess.)

5 BY MR. O'CALLAGHAN:

6 Q Mr. Nash, do you have any knowledge of a
7 bond underwriting that was undertaken in 1985 to
8 provide capital for the purchase of a new police
9 radio system for the state of Arkansas?

10 A I generally remember that issue.

11 Q In your capacity as senior economic adviser
12 to the Governor, did you participate in any of the
13 discussions related to creating legislation to
14 authorize this financing?

15 A I don't remember participating in any
16 discussion to authorize the financing, but I possibly
17 could have. As I remember it, it was a bond
18 financing, and while it didn't relate to economic
19 development, I was generally the person who dealt
20 with policy as it relates to bond financing.

21 Q Was there anyone else at the governor's
22 office who acted as liaison with the -- I believe the

1 State Police did the underwriting for this. Is there
2 anyone else in the governor's office who acted as
3 liaison for this?

4 A There was someone who acted as liaison for
5 State Police, but I don't remember who it was.

6 Q With respect to this project specifically,
7 the bond underwriting for the radio network.

8 A I don't remember. I don't remember
9 specifically.

10 Q Do you know if Sam Bratton had those
11 responsibilities?

12 A He could have. He was the Governor's
13 counsel. So, he could have -- in fact, he may have
14 gotten involved. I think he may have, but I'm not
15 for sure. In fact he -- well, I don't want to guess
16 who the liaison was. I don't know. But I think he
17 was involved in that State Police financing in some
18 shape, form or fashion.

19 Q Was he involved in helping prepare the
20 enabling legislation for the project, do you know?

21 A As the counsel, Sam would get involved in
22 every piece of legislation related to the legislative

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1 sessions we had every two years or even special
2 session, every piece.

3 Q I would like to show you a document Bates
4 stamped DKS N 017979 through DKS N 017993. I will
5 identify it quickly for the record. The first page
6 is dated 11/19/84. It is an act authorizing the
7 issuance of revenue bonds by the Arkansas Police
8 Commission for the finance of the cost of
9 communications equipment for the Department of
10 Arkansas State Police providing for the payment and
11 security of such bonds and for other purposes.

12 On the first page of that, there is some
13 handwritten notations that appear on the top of the
14 page.

15 A I see the handwritten notations.

16 Q Do you recognize the handwriting on that
17 document?

18 A No, I do not.

19 Q So, it is not your handwriting?

20 A No, that is not my handwriting.

21 Q Are you familiar with Sam Bratton's
22 handwriting?

1 A No, not now. I think I used to a decade
2 ago.

3 Q You don't recognize that as Sam Bratton's
4 handwriting?

5 A No, I don't recognize that as Sam Bratton's
6 handwriting. I wouldn't know Sam Bratton's
7 handwriting today. I'm sure I knew back then.

8 Q Do you know if initially this bond offering
9 was contemplated to be done through ADFA?

10 A I don't know that for a fact, no, I don't.

11 Q During 1985, was it within ADFA's authority
12 to do a bond underwriting of this nature?

13 A As I remember it, I think ADFA could have
14 done the bond underwriting for this, but I am not
15 positive.

16 Q At the time the bond underwriting was
17 undertaken by the State Police, or bond issuance, I
18 guess, is probably more accurate, were you surprised
19 that this project was undertaken by the State Police
20 rather than through ADFA?

21 A Was I surprised? I don't think I was
22 surprised. No, I wouldn't characterize it as

1 surprised, no.

2 Q Were you aware whether the State Police
3 ever had undertaken to do a bond issuance before?

4 A I can't remember whether they had or not.

5 Q I'm just trying to get a feel for whether
6 this was something out of the ordinary, for the State
7 Police to be doing the bond offering versus having
8 the Development Finance Authority do it.

9 A I don't know whether it was unusual for
10 them -- I can't remember whether it was unusual for
11 them to do it or not. I don't think they did bond
12 issues on a regular basis. ADFA did bond issues on a
13 regular basis.

14 Q Would ADFA have been a -- did you have any
15 involvement in the process of locating underwriters
16 to do the underwriting for the State Police radio
17 network?

18 A No.

19 Q Did you have any contact with anyone with
20 the State Police Commission with regard to this
21 underwriting?

22 A No, not that I recall.

1 Q Were you ever consulted for advice with
2 regard to this underwriting, the State Police radio
3 underwriting?

4 A I don't remember specifically, but I would
5 assume that Sam Bratton and I may have had some
6 conversations about it, because I do -- bond issues
7 were something that I knew about, and again, as I
8 remember it, Sam had some involvement, or maybe it
9 was a staff person, on this State Police financing.
10 But I can't remember that specifically. I think he
11 did.

12 Q Did you have any meetings with Sam Bratton
13 and any of the underwriters involved who were
14 competing for the business to do the bond
15 underwriting for the State Police radio network?

16 A I don't remember that I did, but I could
17 have.

18 Q Do you remember whether you attended any
19 meetings with Mr. Bratton and Mr. Drake with regard
20 to the State Police radio network?

21 A I don't remember.

22 Q Did you have any discussions with anyone at

1 Lasater & Company with regard to the police radio
2 bond underwriting?

3 A I don't recall having any discussions or
4 meetings with anyone at Lasater & Company about the
5 State Police bond underwriting.

6 Q Were you ever given any of the proposals
7 that were submitted for the underwriting contracts on
8 the police radio offering?

9 A I don't remember being given any proposals
10 by the underwriters for that bond issuance.

11 Q When I say proposals, either given by the
12 actual underwriters or by anyone at the State Police
13 Commission or did anyone bring them to your
14 attention?

15 A I don't remember that they did.

16 Q Did you have any conversations with the
17 Governor with regard to the bond offering related to
18 the State Police radio network?

19 A No, not that I remember.

20 Q If I asked you this question, please let me
21 know. I don't want to repeat anything.

22 Did you have any conversations with anyone

1 at the State Police Commission with regard to the
2 bond offering to finance the State Police radio
3 network?

4 MR. SIMPSON: I believe that was asked.

5 MR. FEUER: I believe so too.

6 THE WITNESS: I will answer it again. Not
7 that I recall. I'm not saying I didn't, but not that
8 I recall.

9 BY MR. O'CALLAGHAN:

10 Q Do you know who authored the -- I will
11 withdraw that.

12 Did anyone from the governor's office make
13 a recommendation to the State Police Commission as to
14 which underwriting firm should be chosen to do the
15 State Police radio bond offering?

16 A Not that I'm aware of.

17 Q Did you ever become familiar with the
18 mechanics of the financing that was utilized for the
19 Police State bond underwriting, the Police State
20 radio bond underwriting?

21 A I probably did at some time, at some time
22 probably after the process, because again, my work --

1 I was familiar with bond issues and I know at some
2 time I did become familiar with it. It may have been
3 reading the official statement, but I'm not sure.

4 MR. O'CALLAGHAN: I have no further
5 questions at this time.

6 MR. FEUER: Let's go off the record for a
7 minute.

8 (Discussion off the record.)

9 BY MR. O'CALLAGHAN:

10 Q Did you know anybody who was on the State
11 Police Commission?

12 A When?

13 Q In 1985.

14 A Well, I probably did, but I can't remember
15 any names. I mean, the State Police Commission was a
16 major commission, and I would know people who were on
17 it, but I can't tell you specifically any names.

18 Q You stated that you worked for the Winthrop
19 Rockefeller Foundation?

20 A Yes.

21 Q I wonder if you knew -- I believe there was
22 a Winthrop Rockefeller who was a member of the State

1 Police Commission. If you knew Mr. Rockefeller?

2 A Yes, I remember Mr. Rockefeller was a
3 member of the State Police Commission, but I forget
4 the years.

5 Q Did you have any discussions with him with
6 regard to the bond offering for the State Police
7 radio network?

8 A No, I did not.

9 MR. FEUER: For the sake of clarity, is
10 Winthrop Rockefeller a different individual from Win
11 Paul Rockefeller.

12 THE WITNESS: That's correct. His name is
13 actually Win Paul Rockefeller. It is not Winthrop.
14 Winthrop Rockefeller was his father, and his name is
15 actually Winthrop Paul Rockefeller. He goes by the
16 name Win Paul.

17 BY MR. O'CALLAGHAN:

18 Q But you were familiar with the younger
19 Mr. Rockefeller; is that right?

20 A I worked for him.

21 MR. O'CALLAGHAN: I have no further
22 questions on that.

1 (Recess.)

2 MR. NAPPI: I take it Mr. O'Callaghan ran
3 you through the preliminaries at the beginning so we
4 can dispense with that. My name is Doug Nappi,
5 Majority counsel, Senate Whitewater Committee. I am
6 going to question Mr. Nash regarding the lending
7 activities of Perry County Bank.

8 EXAMINATION

9 BY MR. NAPPI:

10 Q Mr. Nash, I understand that you previously
11 testified that during the 1982 Clinton for governor
12 campaign you were working on a regular basis and
13 giving speeches.

14 A Yes.

15 Q What about subsequent Clinton for governor
16 campaigns?

17 A Subsequent to?

18 Q 1982. For instance, 1984 would have been
19 the next campaign?

20 A Next election, yes.

21 Q Did you work on that full-time?

22 A No. I never worked on the campaign

1 full-time.

2 Q Did you work in any capacity on the '84
3 campaign?

4 A Yes.

5 Q Approximately how many days a week were you
6 spending working on that campaign?

7 A Approximately -- I may not characterize it
8 as days. It was evenings and weekends. I would say
9 probably five evenings, four to five evenings a week,
10 a five-day week, and then a majority of the day on --
11 a significant majority of the days on Saturday and
12 Sunday for whatever period that the campaign was
13 active, things were going on. A campaign is
14 basically a buildup. So that's the way I would
15 describe that.

16 Q What kind of services did you render to the
17 campaign?

18 A I basically -- the majority, overwhelming
19 majority of my work had to do with speaking to groups
20 around the state regarding primarily economic
21 development and the record generally of the
22 governor.

1 Q And what types of groups would you discuss
2 this with?

3 A All types, soup to nuts. Civic groups,
4 church groups, chamber groups, community development
5 groups, community-based organizations, any number.

6 Q Did you provide any other services other
7 than speeches and community outreach?

8 A Most of my work related to speeches. In
9 some other cases, helping document the record of the
10 administration, how many jobs were created, how many
11 businesses were incorporated, how many firms were
12 recruited into the state, those kinds of things.

13 Q Did you have any involvement in campaign
14 finance, fundraising?

15 A No. Fundraising was not a part of my
16 responsibility.

17 Q What about get out the vote activities?

18 A Very rarely did I get involved in get out
19 the vote. To the extent that I would be speaking to
20 groups and encouraging them to get out to vote on
21 election day, you could count that, if you count that
22 as get out the vote, then I did.

1 Q '86, were you involved in the '86 Clinton
2 for governor campaign?

3 A I was involved in the '86 governor's
4 campaign, performing primarily, in fact, almost
5 exactly the same kinds of duties.

6 Q In the 1988 Clinton for governor campaign,
7 were you involved in that?

8 MR. PORTNOY: Off the record.

9 (Discussion off the record.)

10 MR. PORTNOY: In the discussion off the
11 record, Mr. Nash has helped us figure out that the
12 1986 term was a four-year term, so there was no 1988
13 election.

14 BY MR. NAPPI:

15 Q Okay. Let's move on to the 1990
16 gubernatorial election. By that, when I refer to the
17 gubernatorial election, I am referring to primary or
18 general election, one election cycle, if you will.

19 A Okay.

20 Q Were you involved in the 1990 Clinton for
21 governor campaign?

22 A Yes.

1 Q Do you recall the approximate dates that
2 you were involved?

3 A No.

4 Q Do you recall the kind of time you
5 committed? Were you a full-time employee?

6 A No.

7 Q So you were volunteering your services?

8 A Yes.

9 Q Do you recollect the amount of time you
10 were spending on the campaign?

11 A Evenings I would say four to five evenings
12 a week at some time during the campaign cycle, again,
13 I don't remember exactly. Campaigns go from a year,
14 year and a half or nine months. It just depends on
15 what kind of opposition you have.

16 Then I worked weekends, Saturdays and
17 Sundays. And I would say probably during what you
18 would call the heat of the campaign, whenever that
19 was, all day Saturday and probably Sunday afternoons,
20 Sunday nights, that kind of thing.

21 Q Who asked you to work on the 1990 campaign?

22 A Who asked me to work on it?

1 Q Yes.

2 A Well, I was a member of the governor's
3 staff, and most of them worked on the campaign. I
4 don't remember who actually asked me. It wasn't
5 like -- I didn't have to be asked. I just worked.

6 Q Do you recall who asked you to initiate
7 your activities on behalf of the campaign?

8 A No.

9 Q Do you understand what I mean? Like who
10 said look, we need you to start showing up at nights?

11 A I guess I would probably understand the
12 question if it was like the first time, but I was on
13 the staff and I had been on the staff since 1983. I
14 just -- in fact, the first time I asked myself, which
15 was like in '83 or '82, whenever the campaign started
16 for the -- let's see. '82, there was an election in
17 '82. I went down and asked. I walked down to the
18 campaign's office and said hey, I got to work. After
19 that I can't remember anybody asking me to work. I
20 just worked. It wasn't like a big, formal deal.

21 Q What kind of role did you serve in the 1990
22 campaign? What kind of services did you render?

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1 A The same as I did in the previous campaigns
2 I just described.

3 Q Speaking to civic groups, community groups?

4 A All kinds of groups. A lot of them were
5 business kind of groups.

6 Q Issue research?

7 A Issue research?

8 Q Documenting the record.

9 A Documenting what had happened in the state,
10 yes, particularly as it relates to economic
11 development, particularly. On the time thing, I
12 think I did use some vacation days. I never took
13 vacations. I just used it for campaigns.

14 Q What about fundraising? Were you involved
15 in any aspect of fundraising during the 1990
16 campaign?

17 A No. That was not a part of my
18 responsibility. I may have attended a fundraiser,
19 but I don't think I remember raising funds, going
20 around and asking people for funds.

21 Q What about get out the vote activities?
22 Were you involved in that to an extent?

1 A Only to the extent of encouraging people
2 when I was out in the field. My responsibility did
3 not have to do with GOTV, which is a term used, get
4 out the vote activities which usually occurred a few
5 days before the campaign.

6 Q The days preceding a primary or general
7 election in 1990 you were not involved in any respect
8 in getting out the vote or in the activities to get
9 out the vote?

10 A Yes, if I was speaking tomorrow I am saying
11 tomorrow or three days later there is a vote, you
12 need to get out, to that extent, yes.

13 Q Were you speaking to more groups in the
14 days immediately preceding the primary or general
15 election?

16 A Yes, that was generally the case. The
17 closer it got -- well, depending on how tough the
18 election was at that particular time. I can't
19 remember. We had some tough ones and had some that
20 were not so tough, I guess.

21 Q Do you remember the 1990 election as being
22 a tough one?

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1 A Yes, I think so. Yes, I think it was. I
2 can't remember who the opposition --

3 Q Jim Guy Tucker in 1990?

4 A I can't remember. I remember 1990 being a
5 tough campaign. I don't remember who the opponents
6 were.

7 Q Do you have any general recollections as to
8 why it was a tough campaign?

9 A No.

10 Q Fair enough. Do you know a gentleman named
11 Bruce Lindsey?

12 A Yes.

13 Q What was his role in the 1990 campaign?

14 A I think his role -- I'm not positive on
15 this, but I think it was treasurer, to the best of my
16 recollection.

17 Q I'm not as interested in title as function,
18 what function he performed in the 1990 election.

19 A I don't know specifically what his function
20 was other than he was a treasurer. Whatever a
21 treasurer does for a campaign, that's what he did.
22 But I don't know specifically about his duties.

1 Q Did Mr. Lindsey run the 1990 campaign? Was
2 he in charge?

3 A Was he the campaign manager? Is that what
4 you mean?

5 Q No. Again, I don't want to focus on title
6 as much as any informal hierarchy that may have
7 existed.

8 A Your question is a little confusing to me.

9 Q Okay. I will try to clarify. Was
10 Mr. Lindsey the top adviser on the 1990 Clinton
11 campaign?

12 MR. PORTNOY: To whom? Top adviser to
13 whom, Doug?

14 BY MR. NAPPI:

15 Q Top adviser to the candidate and the person
16 who had ultimate decisionmaking responsibility on the
17 campaign.

18 MR. SIMPSON: I will object to the form of
19 the question.

20 MR. PORTNOY: Again, I am going to ask you
21 to break it down.

22 MR. NAPPI: Okay.

1 MR. PORTNOY: Are you asking generally or
2 with respect to specific areas of the campaign?

3 MR. NAPPI: All right, all right.

4 BY MR. NAPPI:

5 Q Was Mr. Lindsey the ultimate decisionmaker
6 on the 1990 campaign?

7 A I am not aware of his specific duties and
8 responsibilities other than the fact that he was the
9 treasurer of the campaign and he did whatever
10 treasurers do on a campaign.

11 Q Do you know what woman named Gloria Cabe?

12 A Yes, I do.

13 Q What was her role in the campaign?

14 A She was the campaign manager.

15 Q Do you know a woman named Glenda Cooper?

16 A No, I don't remember a woman named Glenda
17 Cooper.

18 Q Do you know a woman named Betsey Wright?

19 A Yes, I do.

20 Q Did Betsey Wright have a role in the 1990
21 Clinton for governor campaign?

22 A Not that I'm aware of.

1 Q Who did you report to?

2 A Gloria Cabe.

3 Q Exclusively?

4 A Well, campaigns are not like corporate
5 structures. I reported to whoever -- it was a team.
6 It wasn't a corporate structure with hard lines and
7 all that. If somebody asked, if someone -- I just
8 don't -- you said exclusively and the answer is no.

9 Q Were there instances in the 1990 campaign
10 where you reported to Bruce Lindsey?

11 A You know, when you say "reported to,"
12 again, the terminology you are using "reported to" is
13 not formal in a campaign. I'm not sure I understand
14 what you mean by "reporting to." The only person
15 that I formally reported to or even informally was
16 Gloria Cabe because she was the campaign manager. I
17 had a responsibility for speaking to groups all over
18 the state.

19 So, I would let her know and requests would
20 come in. I'm not sure where they came in to.
21 Sometimes I would decide ones to go speak to and
22 sometimes she would give me ones to go speak to.

1 Q Did you ever have discussions with
2 Mr. Lindsey regarding the 1990 campaign?

3 A I'm sure I did.

4 Q Did Mr. Lindsey ever request you to perform
5 any specific duties during the 1990 campaign?

6 A He probably did, yes, he probably did. He
7 may have asked me to speak to a group, but I'm not
8 sure. I'm sure he had to, because when requests came
9 in, I guess everybody got them and he could have
10 asked me to speak to a group.

11 Q Do you know a gentleman named Herby
12 Branscum?

13 A Yes, I do.

14 Q How do you know Mr. Branscum?

15 A He is a public figure in Arkansas, has been
16 for a number of years. That's how I know him.

17 Q Did you have any communications or contacts
18 with him during the 1990 gubernatorial election?

19 A I'm sure that I did, but I don't remember
20 specifically. He was a supporter.

21 Q Did you know that he was on the board of
22 directors of the Perry County Bank at that time?

1 A I knew he was on the board or President or
2 had some key position with Perry County Bank. I'm
3 not sure I knew at that time what his position was.
4 I knew at some time during the '80s and probably the
5 '90s he had some key role there at the bank.

6 Q Do you know a gentleman named Robert Hill?

7 A Robert Hill?

8 Q Yes.

9 A I don't think I know Robert Hill.

10 Q He was and is a member of the Arkansas
11 banking commission, the state banking commission.
12 Does that refresh --

13 A I am familiar with the state banking
14 commission, but it doesn't refresh me about who
15 Robert Hill is.

16 Q Do you know a gentleman named Neil Ainley?

17 A I know that name, yes.

18 Q Have you ever talked to Neil Ainley?

19 A I don't remember ever talking to Neil
20 Ainley.

21 Q Do you know how you know the name?

22 A Yes. Most recently I read it in the

1 newspaper over the last -- well, I think even
2 recently, like either yesterday or the day before I
3 read his name in the newspaper.

4 Q Prior to reading about Mr. Ainley in the
5 newspapers, did you know of him?

6 A Did I know of him? I vaguely recollect
7 that I knew of his name, yes.

8 Q Did you know of him during the 1990
9 gubernatorial campaign?

10 A I don't remember that I did.

11 Q Are you familiar with an institution called
12 the Perry County Bank?

13 A Yes, I am.

14 Q Did you know of that bank's role in the
15 1990 Clinton for governor campaign?

16 A No, not specifically.

17 Q Did you know that Perry County Bank had
18 extended loans to the Clintons or the Clinton for
19 governor campaign?

20 A I knew that --

21 MR. SIMPSON: I was going to object to the
22 form. But if you understand --

1 MR. PORTNOY: Could we establish a time
2 frame? Are you asking whether he knows now or
3 whether he knew contemporaneously?

4 MR. NAPPI: Good point.

5 BY MR. NAPPI:

6 Q During the 1990 gubernatorial campaign or
7 let's focus on the calendar years 1990-1991, were you
8 aware that the Perry County Bank had extended loans
9 to either the Clintons personally or the Clinton for
10 governor campaign?

11 A I did not know nor do I today know anything
12 about personal loans to Bill Clinton during the 1990
13 campaign.

14 I do know that during the 1990 campaign, I
15 went to the Perry County Bank to take some loan
16 papers and pick up a check. I was asked to do that
17 by somebody at the campaign. And I think it was
18 1990, but I'm not positive.

19 So, to the extent that I was told to take
20 some loan papers, I assumed by that that there was a
21 loan at Perry County Bank, and it was from the
22 campaign headquarters where I left to go to Perry

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1 County Bank.

2 Q Let's focus on that particular event.

3 A Okay.

4 Q It was during the 1990 campaign?

5 A I don't know exactly which campaign it
6 was. It was a campaign.

7 Q Do you recall who asked you to go to the
8 Perry County Bank?

9 A No, I don't.

10 Q Was it Bruce Lindsey?

11 A I don't recall who asked me to go.

12 Q Were you in Little Rock at the time?

13 A Yes, I was in Little Rock.

14 Q Campaign headquarters was in Little Rock?

15 A Yes. I think they were always in Little
16 Rock, as I remember.

17 Q And you were asked to deliver loan papers?

18 A I was asked to take loan papers to Perry
19 County Bank and to pick up a check.

20 Q By "loan papers," do you mean a note or a
21 loan extension?

22 A I don't know.

1 Q Did you examine the papers?

2 A No.

3 Q Were you told to speak to a specific person
4 at the Perry County Bank?

5 A I don't remember that I was told to speak
6 to a specific person, no, I don't.

7 Q Do you recall who you spoke to at the Perry
8 County Bank?

9 A No, I don't. I know it was a man.

10 Q If it was Herby Branscum, would you recall
11 that?

12 A Yes, I would know if it was Herby
13 Branscum.

14 Q Could it have been Neil Ainley?

15 A It could have been Neil Ainley, only
16 because I don't know Neil Ainley, and it could have
17 been, but I'm not sure.

18 MR. PORTNOY: Just to clarify, are you
19 saying that you have reason to believe that it could
20 be Neil Ainley or that you have no knowledge one way
21 or the other?

22 THE WITNESS: I have no knowledge one way

1 or the other. I know that it was not Herby Branscum,
2 because I know Herby Branscum.

3 BY MR. NAPPI:

4 Q You were asked to pick up a check.

5 A Yes, that's what I was told.

6 Q Did you in fact pick up a check?

7 A Yes.

8 Q Was it a cashier's check?

9 A I don't really know exactly what kind of
10 check it was. The gentleman put it in an envelope,
11 put the check in an envelope sitting at a desk and
12 sealed it and handed it to me.

13 Q So you did not examine the check?

14 A I did not examine the check.

15 Q And the gentleman who gave you the check is
16 the person you rendered the loan papers to?

17 A Yes. As I remember, when I walked in, I
18 said "I'm Bob Nash and I'm here to deliver some loan
19 papers and pick up a check" to whoever was in the
20 front. I don't remember who that was. Maybe it was
21 a lady. And then she went in the back and then a guy
22 came out. I'm trying to think. I think I may have

1 sat down at a desk. In fact, I did sit down at a
2 desk. I handed him an envelope. This is like a
3 decade ago, I think a decade ago or longer. I can't
4 remember whether it was -- it had to be either the
5 '86 campaign or the '90 campaign. I don't believe
6 it was the '84 campaign or the '82 campaign.

7 I handed him the loan papers which were in
8 an envelope, and he -- I can't remember specifically,
9 but I remember him putting a check in an envelope,
10 sealing it and handing it to me.

11 Q Were you seated at his desk?

12 A I don't know where his desk was. I was
13 seated at a desk.

14 Q Was it your impression that this gentleman
15 was an officer of the bank as opposed to a teller or
16 a clerical person?

17 A I don't think it was a teller, because he
18 was not behind a teller booth. He came out from
19 somewhere in the back of the bank out to a desk that
20 was sitting out front.

21 Q Was he wearing a suit?

22 A Probably.

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1 Q When you were asked to go up to Perry
2 County Bank, were you told to ask for someone in
3 particular?

4 A No, not that I remember.

5 Q Do you recall what time of year this was?

6 A I don't.

7 Q Was it within a month of the primary
8 election?

9 A I don't remember. Not only don't I
10 remember how close it was to the primary or a
11 general, I don't remember the specific campaign. I
12 just know it was a campaign. I probably can place it
13 at '90 or '86.

14 Q Why were you asked specifically to go up to
15 Perry County?

16 A I don't know. I think I was just standing
17 around and somebody said -- in fact, somebody said,
18 as I remember it, can somebody go over to the Perry
19 County Bank and take some loan papers and pick up a
20 check. I vaguely remember somebody saying that. I
21 don't know who it was. I said I would go.

22 Q Had you been to the Perry County Bank

1 before?

2 A No, I don't think I had ever been to the
3 Perry County Bank before.

4 Q Were you surprised at how far it was from
5 campaign headquarters?

6 A Surprised at how far it was?

7 Q How long did it take you to get from the
8 campaign headquarters to the Perry County Bank?

9 A I have to think about this for a second.

10 Well, I don't know specifically, to be honest with
11 you. I don't know how long it took. Whatever normal
12 driving time would be from downtown Little Rock. I'm
13 not exactly sure where the campaign headquarters were
14 at that time either. However long it took from
15 downtown Little Rock to Perryville is about how long
16 it took.

17 Q Could you approximate how long that trip
18 is?

19 A I can't tell.

20 MR. SIMPSON: In the normal course?

21 MR. NAPPI: Yes.

22 THE WITNESS: Probably less than an hour.

1 BY MR. NAPPI:

2 Q A half hour?

3 A Probably more like a half an hour, because
4 as I think how far downtown Perryville is, it is like
5 one block here, almost. I would say half an hour.
6 That's my guess.

7 Q You have testified that generally you
8 worked week nights and weekend days.

9 A Yes.

10 Q Do you recall if this was a Saturday you
11 were asked to go up to Perry County Bank?

12 A I don't recall what day it was.

13 MR. PORTNOY: I believe Mr. Nash also
14 testified that he took vacation days and worked on --

15 MR. NAPPI: I understand. I said generally
16 speaking you weren't. That was going to be my next
17 question.

18 THE WITNESS: I don't remember what date it
19 was.

20 BY MR. NAPPI:

21 Q You can't recall if it was a vacation day?

22 A No.

1 Q Was this your only visit to the Perry
2 County Bank?

3 A I think it was my only visit to the Perry
4 County Bank.

5 Q I mean from that visit to the present, you
6 have not returned to the Perry County Bank?

7 A To the best of my recollection, I had not
8 visited Perry County Bank before that or after that.

9 Q Do you recall ever telling Betsey Wright
10 that Bruce Lindsey had asked you to go to the Perry
11 County Bank to get some get out the vote money?

12 A No. No, I do not.

13 Q Do you recall ever telling Betsey Wright at
14 any point in time -- again, now I'm not focusing on
15 just the '90 election cycle -- any time from 1990 to
16 the present, do you recall telling anyone that Bruce
17 Lindsey had asked you to go to Perry County Bank to
18 pick up some get out the vote money?

19 A No, I don't remember telling anyone that
20 Bruce Lindsey had told me to go to Perry County Bank
21 to get money for get out the vote.

22 Q Do you recall telling anyone that anyone

1 related with the Clinton campaign in 1990 had asked
2 you to go to the Perry County Bank to pick up some
3 get out the vote money?

4 A No.

5 Q You testified that you knew Herby Branscum
6 was a supporter of Governor Clinton.

7 A Yes.

8 Q Were you aware that he had made campaign
9 contributions to the 1990 Clinton for governor
10 reelection campaign?

11 A I am sure that sometime I am aware of that,
12 and it probably was from reading the newspaper ads
13 that list all the contributors after the finance
14 reports are turned in.

15 Q So, during the 1990 election cycle, you
16 would have been aware?

17 A If he had made a contribution during the
18 1990 campaign and it was reported in the newspaper,
19 then I would have been aware because I read
20 newspapers all the time.

21 Q Other than newspaper accounts, do you have
22 any recollection of any discussions regarding

1 Mr. Branscum's campaign contributions to the 1990
2 Clinton for governor campaign?

3 A I do not recall any discussions, no,
4 regarding Herby Branscum's contributions to the 1990
5 campaign.

6 Q Do you have any knowledge, aside from
7 newspaper accounts, of campaign contributions by any
8 businesses controlled by Mr. Branscum to the 1990
9 Clinton for governor campaign?

10 A No.

11 Q Do you have any knowledge of campaign
12 contributions made by Mr. Branscum's family to the
13 Clinton for governor campaign?

14 A No, I don't. I'm not sure I know who his
15 family is.

16 Q That's not my question. Do you know of his
17 family making campaign contributions?

18 A No.

19 Q Or anyone whose last name is Branscum.

20 A Other than what I read in the newspaper?

21 Q Yes.

22 A No.

1 MR. PORTNOY: I would like to reiterate
2 here that Mr. Nash has not testified that he did in
3 fact read anything in the newspaper, but he has
4 stated that if it were reported in the newspaper, he
5 likely would have read that.

6 THE WITNESS: Correct.

7 MR. NAPPI: Fair enough.

8 BY MR. NAPPI:

9 Q Again, I'm focusing on the 1990-1991 time
10 period.

11 A Okay.

12 Q I apologize for moving around.

13 A That's okay.

14 Q Neil Ainley, were you aware that he had
15 made any campaign contributions to the Clinton for
16 governor campaign in 1990?

17 A No, I was not aware.

18 Q Have you subsequently become aware of
19 Mr. Branscum or Mr. Ainley making any campaign
20 contributions to the 1990 Clinton for governor
21 campaign?

22 A I vaguely remember there were newspaper

1 accounts citing that, but I don't remember the
2 particular newspaper accounts either here in The
3 Washington Post or in The Arkansas Democrat. But I
4 don't remember the particulars.

5 Q During the 1990 gubernatorial campaign,
6 were you aware that Mr. Branscum or Robert Hill had
7 made campaign contributions with funds derived from
8 the Perry County Bank?

9 MR. PORTNOY: I believe Mr. Nash testified
10 that he wasn't aware of any contributions of any
11 kind.

12 THE WITNESS: That is correct, I was not
13 aware of any contributions that were made. I don't
14 know who Robert Hill is, first of all. I don't
15 remember who he is. As I indicated, if there was
16 something in the paper about a contribution as a
17 result of a state election report that is given to
18 the paper, if it was in there, I probably read it.

19 BY MR. NAPPI:

20 Q Have you ever had any discussions with
21 Bruce Lindsey regarding the 1990 gubernatorial
22 election campaign since 1990?

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1 A Yes.

2 Q Do you recall the circumstances? Was it
3 one conversation?

4 A I remember talking to Bruce Lindsey on two
5 occasions regarding whether or not I went to Perry
6 County Bank. I think that's right. No, that's not
7 correct. I'm getting all these names confused.

8 I had two conversations with Bruce Lindsey
9 regarding a meeting at a trailer with Jim McDougal
10 since 1990.

11 Q I know you have previously testified as to
12 that meeting.

13 A I did.

14 Q Are those the only two occasions that you
15 recall talking to Mr. Lindsey regarding any of the
16 events in the 1990 campaign?

17 MR. SIMPSON: Since?

18 THE WITNESS: Any of the events?

19 BY MR. NAPPI:

20 Q Yes, subsequent to the -- let's say the end
21 of calendar year 1990.

22 A Let me make sure I understand your question

1 again. One more time.

2 MR. PORTNOY: Before you answer, sir, I'm
3 going to ask that we go off the record for a second.

4 (Discussion off the record.)

5 BY MR. NAPPI:

6 Q Since the end of 1990, do you recall any
7 conversations with Bruce Lindsey regarding the 1990
8 reelection campaign, other than the two discussions
9 you previously testified to?

10 MR. SIMPSON: Which are regarding the
11 meeting in the trailer?

12 MR. NAPPI: Yes.

13 THE WITNESS: No, I don't recall any. I
14 mean -- I don't. You are saying any conversations.
15 That could be like anything. I don't remember
16 anything, no, I really don't.

17 BY MR. NAPPI:

18 Q Do you recall any conversations at any time
19 with Mr. Lindsey regarding the Perry County Bank?

20 A At any time. No.

21 Q Do you recall any conversations with
22 Mr. Lindsey regarding Herby Branscum?

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1 A No. I assume you are referring to the 1990
2 campaign.

3 Q Or any conversations regarding Herby
4 Branscum.

5 A Any conversations? You know, I don't know
6 how to --

7 MR. PORTNOY: Let's go off the record one
8 more time.

9 (Discussion off the record.)

10 MR. PORTNOY: Let's now go back on the
11 record and allow Mr. Nash to respond. First I would
12 like to make a notation. Counsel have conferred and
13 Mr. Nappi has agreed that he will ask Mr. Nash's
14 recollection for the period from 1990 forward, since
15 that is the area of inquiry.

16 BY MR. NAPPI:

17 Q Since 1990, have you had any conversations
18 with Bruce Lindsey regarding Herby Branscum's
19 involvement in the 1990 reelection campaign?

20 A No.

21 Q Do you have any knowledge regarding
22 attempts to withdraw funds from the Perry County Bank

1 during the 1990 reelection campaign in such a way as
2 to avoid the filing of cash transaction reports with
3 the IRS?

4 A No.

5 Q I should have asked the foundational
6 question. Do you know what a cash transaction report
7 is?

8 A As I understand it, this has been reported
9 on recently in the newspapers. If you read that, it
10 is some sort of report that you file when cash is
11 withdrawn. That's about what I know about it.
12 Probably a layman's understanding.

13 But I know nothing about that, no.

14 Q Do you recall in the month or two
15 subsequent to the 1990 general election, let's focus
16 on November and December of 1990, an effort by the
17 campaign to retire outstanding campaign debt?

18 A No.

19 Q Did you ever meet with or take part in a
20 meeting with Governor Clinton regarding fundraising
21 attempts to retire campaign debt?

22 A No.

1 Q Are you aware that Herby Branscum is
2 currently a commissioner on the state highway
3 commission in Arkansas?

4 A Yes, I think I am.

5 Q Do you recall when Mr. Branscum was
6 appointed?

7 A No, I don't.

8 Q Did you ever have any conversations
9 regarding Mr. Branscum's appointment to the state
10 highway commission?

11 A No.

12 Q I want to ask you about a series of
13 individuals or law firms and whether you have had any
14 discussions or contacts with them regarding Perry
15 County Bank or Herby Branscum's role in the 1990
16 gubernatorial election since election day 1990.

17 Have you ever discussed Perry County Bank
18 or Herby Branscum's role in the 1990 campaign with
19 David Ifshin?

20 A No.

21 Q Do you know David Ifshin?

22 A David Ifshin is the way you pronounce it.

1 I do know David Ifshin.

2 Q Have you ever had any discussions with
3 Mr. Ifshin regarding the 1990 campaign? I'm not just
4 focusing on Perry County now. The 1990 campaign at
5 all?

6 A I don't remember that I did, no.

7 Q Did you ever have any discussions regarding
8 the 1990 campaign -- let's not just focus on Perry
9 County or Mr. Branscum for present purposes. Let's
10 just focus on any discussions regarding the 1990
11 Clinton for governor campaign.

12 A Any discussions?

13 MR. PORTNOY: I'm going to object to that
14 as beyond the scope and ask you to articulate a basis
15 within the Resolution for inquiries about the 1990
16 Clinton campaign other than in the context of the
17 Perry County Bank.

18 MR. NAPPI: These are foundational
19 questions. I am asking them to lay a foundation as
20 to whether he had any discussions with any of these
21 individuals regarding the 1990 election so that I can
22 return to the issue of Perry County Bank.

1 Now, I'm really making an honest effort to
2 move this along as quickly as possible. I know
3 Mr. Nash and his counsel have been here all day.
4 This is the quickest way for me to get through this
5 line of questioning.

6 MR. PORTNOY: I will not object to
7 foundational inquiries about whether Mr. Nash has had
8 conversations. I will, however, object to inquiries
9 about the subject matter of those conversations if
10 the inquiries are generalized. If you ask him
11 whether those discussions concern specific subjects
12 within the scope of the Resolution, I will have no
13 objection. With that having been said, I turn back
14 the mike.

15 MR. NAPPI: Once I start inquiring into the
16 substance of conversations outside of the Perry
17 County Bank, your objection will be ripe, let us
18 say.

19 MR. PORTNOY: Understood.

20 BY MR. NAPPI:

21 Q Again, I'm asking you to focus on any
22 conversations since the 1990 gubernatorial election

1 regarding the gubernatorial election. I will lay
2 that out as the question. I will ask you about a
3 series of persons.

4 Did you have any discussions with anyone
5 associated with the Clinton for President campaign
6 regarding the 1990 election?

7 A Did I have conversations with anybody
8 regarding the 1990 campaign with --

9 Q Anyone you knew to be associated with the
10 1990 --

11 MR. PORTNOY: I will have to object to that
12 as overly broad, Doug. Anyone associated with the
13 Clinton for President campaign could encompass most
14 of the state of Arkansas as well as a sizable
15 portion --

16 MR. NAPPI: I will rephrase the question.

17 BY MR. NAPPI:

18 Q Do you recall having any conversations or
19 contacts with any agent or employee of the Clinton
20 for President '92 campaign regarding the 1990
21 gubernatorial campaign?

22 MR. SIMPSON: I do think that is overly

1 broad and general and particularly "agent" is vague.
2 If you can try and answer that in a general way.

3 MR. PORTNOY: I will ask Mr. Nash not to
4 answer and I will ask Mr. Nappi to ask about specific
5 individuals if he has questions about specific
6 individuals. I don't want the witness to be in a
7 position of making an unspoken judgment about who is
8 or is not an agent or representative of the 1992
9 Clinton campaign.

10 MR. NAPPI: Let's go off the record for one
11 minute.

12 (Discussion off the record.)

13 MR. NAPPI: Back on the record. We went
14 off the record to discuss how I could more artfully
15 phrase the question I was getting at. Why don't you
16 phrase the question, Mr. Portnoy.

17 MR. PORTNOY: The question that we
18 discussed while off the record was whether anybody
19 approached you, Mr. Nash, on behalf of the 1992
20 Clinton presidential campaign to discuss with you
21 your role or participation in the 1990 gubernatorial
22 campaign.

1 THE WITNESS: The answer to that question
2 is that yes, there were questions from, I can't
3 remember all the individuals regarding the 1990, the
4 1986, the 1984 and maybe even the 1982 campaigns of
5 Bill Clinton.

6 BY MR. NAPPI:

7 Q Do you recall any such conversations that
8 focused on the Perry County Bank?

9 A I remember one discussion with Betsey
10 Wright where Betsey asked -- I won't say "asked." It
11 was a discussion because we were working together. I
12 was a volunteer in the campaign.

13 I remember her asking whether or not -- I
14 don't remember how it came up, but whether or not I
15 had gone to Perry County Bank. And I do remember
16 saying that I had gone to Perry County Bank to pick
17 up a check. That's one discussion I remember
18 regarding Perry County Bank.

19 That's probably the only discussion that I
20 remember regarding Perry County Bank during the 1992
21 presidential campaign.

22 Q Do you recall any conversations regarding

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1 Mr. Branscum?

2 A No, I do not.

3 Q Do you recall any conversations regarding
4 campaign contributions that were received by the 1990
5 campaign by anyone associated with the Perry County
6 Bank?

7 A No.

8 Q If we could return to this one conversation
9 you recall with Betsey Wright. Do you recall where
10 this occurred?

11 A It probably was at the 1992 campaign
12 headquarters, wherever that was.

13 Q In Arkansas?

14 A In Arkansas.

15 Q Do you recall Ms. Wright offering an
16 explanation as to why she was asking you about this?

17 MR. SIMPSON: I think he said he didn't
18 know whether she asked or it came up in
19 conversation.

20 THE WITNESS: Exactly. We were working
21 together on the 1992 campaign.

22 BY MR. NAPPI:

1 Q What kind of work were you doing together
2 on the 1992 campaign?

3 A In addition to my speaking, I was helping
4 document the record, his record of accomplishments.

5 Q As governor of Arkansas?

6 A As governor of Arkansas over the term.

7 Q Did any present or former member of the
8 Rose Law Firm ever make inquiry to you regarding the
9 1990 gubernatorial campaign?

10 MR. SIMPSON: You said since the campaign
11 was over?

12 MR. NAPPI: Yes.

13 THE WITNESS: No.

14 BY MR. NAPPI:

15 Q Did any present or former member of Wright,
16 Lindsey & Jennings ever contact you regarding the
17 1990 campaign since the end of that campaign?

18 A Not that I remember.

19 Q Did David Kendall or any attorney of
20 Williams & Connolly contact you regarding the 1990
21 campaign since the end of the 1990 election?

22 A No. I know who David Kendall is. I don't

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1 know who the members of the Williams & Connolly firm
2 are. But no, no one --

3 Q No one has contacted you and represented
4 that they were a partner or employee of Williams &
5 Connolly?

6 A No.

7 Q Since the 1990 election campaign ended,
8 have you had any discussions with Gloria Cabe
9 regarding the 199 election?

10 A Not that I remember.

11 Q Do you recall any conversations with
12 Ms. Cabe regarding Perry County Bank?

13 A No.

14 Q Do you know Jim Blair?

15 A Yes.

16 Q Have you ever talked with Jim Blair
17 regarding the 1990 election?

18 MR. SIMPSON: Since it was over?

19 BY MR. NAPPI:

20 Q Or at any time, actually, with respect to
21 Mr. Blair.

22 A About the 1990 campaign, anything about

1 it?

2 Q Yes.

3 A Not that I remember. I mean, I could have,
4 but not that I remember.

5 Q Since the campaign ended, do you recall
6 talking to Mr. Blair regarding the Perry County Bank
7 or Herby Branscum?

8 A No.

9 Q Do you know Diane Blair?

10 A Yes.

11 Q Since the end of the 1990 campaign, have
12 you ever discussed the Perry County Bank or Herby
13 Branscum with her?

14 A No.

15 Q Have you had any conversations with Herby
16 Branscum regarding the 1990 campaign?

17 MR. SIMPSON: Since it ended?

18 BY MR. NAPPI:

19 Q During the campaign, did you have contacts
20 with Mr. Branscum?

21 A Not that I remember.

22 Q After the campaign, have you had any

1 contacts with Mr. Branscum?

2 A After the 1990 campaign?

3 Q Yes.

4 A Not that I remember.

5 THE WITNESS: Can I ask a question off the
6 record?

7 MR. NAPPI: Sure.

8 (Discussion off the record.)

9 MR. NAPPI: Let's go back on the record.

10 While we were off the record, we were addressing a
11 concern that Mr. Nash had raised regarding what was
12 meant by the use of the word "contact," whether
13 running into someone at a political rally would be a
14 contact.

15 I explained to him that what we were
16 interested in was, A, a contact with the person, and
17 B, a contact with respect to the two lines of
18 questioning which I have pursued, which were the 1990
19 election campaign and Perry County Bank or Herby
20 Branscum.

21 MR. SIMPSON: So, for example, seeing
22 someone at a rally, but not talking with them about

1 those subjects would not be a contact.

2 MR. NAPPI: It would not be a contact
3 regarding the 1990 campaign.

4 BY MR. NAPPI:

5 Q I meant some kind of substantive verbal or
6 written communication regarding something. Just
7 because you saw them during the 1990 campaign does
8 not get at what I was getting at.

9 A Okay.

10 Q I think we were on Herby Branscum. Have
11 you ever had any contacts with Mr. Branscum regarding
12 the 1990 campaign?

13 A No.

14 Q With the clarification that we have reached
15 regarding what "contact" means, does that change your
16 answer to any of the individuals or law firms I asked
17 you about?

18 A No.

19 Q We are not interested in who you may have
20 seen at a fundraiser or a rally or any other --

21 A A chamber meeting, whatever.

22 Q I guess my next question would be with

1 respect to Mr. Lindsey, did you ever have any
2 discussions regarding the Perry County Bank's role in
3 the 1990 campaign, Clinton for governor reelection
4 campaign?

5 A No.

6 Q And you have no knowledge other than
7 knowledge that may have been derived from reports in
8 the newspapers regarding alleged attempts to evade
9 the reporting requirements for withdrawals of cash of
10 over \$10,000?

11 A No, I do not.

12 Q With respect to the 1990 campaign.

13 A No, I do not.

14 Q And this is just to clarify the record.

15 The conversation you recollected with Ms. Wright
16 regarding the 1992 campaign -- it took place in the
17 1992 campaign. Excuse me.

18 A That's what I remember.

19 Q The only conversation you remember having
20 with Ms. Wright regarding the 1990 campaign -- again,
21 let me focus you subsequent to the 1990 campaign, do
22 you recall any other conversations with Betsey Wright

1 regarding the 1990 Clinton for governor campaign?

2 A No. The only discussion I remember is
3 during the 1992 presidential campaign, when we were
4 documenting the record of the then-governor for the
5 years he was governor.

6 Q And that's the conversation you have
7 already testified to?

8 A Yes.

9 MR. NAPPI: I have no further questions.

10 MR. PORTNOY: I have no questions.

11 MR. NAPPI: My only question at this point
12 would be did Mitchell want to do a redirect?

13 MR. PORTNOY: We have no further questions
14 on any of the subjects covered during the
15 deposition. Thank you for asking.

16 MR. NAPPI: It is quarter to 6:00. Let's
17 go off the record.

18 (Whereupon, at 5:45 p.m., the deposition
19 was concluded.)

20

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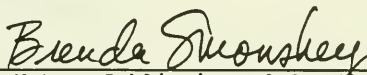
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BOBBY J. NASH

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

**DEPOSITION OF
APRILL NICOLE SPRINGFIELD
IN RE: S. RES. 120**

WEDNESDAY, FEBRUARY 21, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of APRILL NICOLE SPRINGFIELD, called for examination pursuant to notice of deposition, at 2:05 p.m. in Room 534 of the Dirksen Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

VIET D. DINH, Esq.
Majority Associate Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

STEVEN D. GORDON, Esq.
Holland & Knight
2100 Pennsylvania Avenue, NW
Suite 400
Washington, DC 20037
On behalf of the Deponent.

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Springfield Exhibit 1	22, 4139
Springfield Exhibit 2	25, 4140

PROCEEDINGS

MR. DINH: Ms. Springfield, as you know, my name is Viet Dinh. I'm with the Majority staff of the Special Committee to investigate Whitewater Development Corporation and related matters. This deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes the Special Committee to be administered by the Banking Committee to investigate among other things Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services.

As you may know, the Special Committee has investigated and conducted hearings into a number of subjects. I would like to focus on some subjects in particular that I will tell you now. Section 1(b)(1) of Resolution 120 authorizes investigation and public hearings into "whether improper conduct occurred regarding the way in which White House officials handled documents in the office of White House deputy counsel Vincent Foster following his death."

Section 1(b)(3)(A) of Resolution 120

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authorizes an investigation and public hearings into "the operation, solvency and regulation of Madison Guaranty Savings & Loan Association and any subsidiary affiliate or other entity owned or controlled by Madison Guaranty Savings & Loan Association."

Section 1(b)(3)(C) of Resolution 120 authorizes an investigation and public hearings into "the policies and practices of the RTC and federal banking agencies regarding the legal representation of such agencies, with respect to Madison Guaranty Savings & Loan Association."

I anticipate that these will be the focus of today's deposition.

Put aside the legalese, what I'll be talking about is the period between July 20th, 1995 and April -- and August 15th, 1995, that is of this last year, and any other knowledge you may have with respect to certain documents the discovery of which the Special Committee is currently investigating.

THE WITNESS: Okay.

MR. DINH: This testimony will be taken

1 under oath and the stenographer will prepare a record
2 of questions and answers. The deposition is taken in
3 advance of public hearings which are being conducted
4 right now. The Special Committee has not decided who
5 among the deposed witnesses will be actual witnesses
6 at the public hearings. If you are among those
7 witnesses, we will give you notification in advance.

8 Whenever, when a transcript becomes
9 available, somebody from the Committee will give you
10 a call and give you an opportunity to review the
11 transcript of this deposition for any corrections on
12 an errata sheet. And if you are called at a public
13 hearing, we will provide you with a copy of your
14 transcript at least four days in advance of the
15 public hearings.

16 Both of these provisions of the transcript
17 are for the limited purposes of review and
18 preparation for your testimony and they are not to be
19 disclosed for any other reason.

20 You may be represented by counsel. I can
21 see you're represented by able counselor, Mr. Steve
22 Gordon. Pursuant to the procedures set forth in

1 Resolution 120, objections as to the form of
2 questions shall be noted for the record. There are
3 two grounds upon which counsel may advise you not to
4 answer a question; that is on privilege and scope.
5 And the procedures in 120 again sets forth that the
6 Chairman will ultimately decide on those, on such
7 objections where you refuse to answer a question.
8 Will you swear in the witness.

9 Whereupon,

10 APRILL N. SPRINGFIELD
11 was called as a witness and, having first been duly
12 sworn, was examined and testified as follows:

13 EXAMINATION

14 BY MR. DINH:

15 Q Ms. Springfield, can you give me your full
16 name for the record, please.

17 A Sure. Aprill Nicole Springfield.

18
19
20
21 Q Let me ask you whether from the notice of
22 your deposition here by the Special Committee, have

1 you had any conversations other than with your family
2 members or with your counsel regarding the subject
3 matter that you're about to testify?

4 A I spoke briefly to Helen Dickey. I believe
5 she mentioned that to the Committee.

6 Q Yes, I'll explore that a little bit later.
7 Other than Ms. Dickey and your immediate family
8 members and your counsel, anybody else?

9 A Well, Helen's mother Robyn. Other than
10 that.

11 MR. GORDON: Also, for the record, I would
12 note that Ms. Springfield has been interviewed by the
13 Office of the Independent Counsel.

14 BY MR. DINH:

15 Q And when was this interview by the OIC?

16 A Friday.

17 Q Can you start by giving me a brief
18 description of your educational and professional
19 background.

20 A Okay. I'm a college student. I've taken a
21 leave of absence to work at the White House.

22 Q Where are you a college student at?

1 A I'm currently a college student at American
2 University.

3 Q And when did you enter American University?

4 A 1993.

5 Q And when did you take your leave of
6 absence?

7 A This past fall, so September. I didn't
8 report back to school September.

9 Q Of 1995?

10 A Right.

11 Q And what is your current position?

12 A I started this past week at the White House
13 visitors office.

14 Q And before this last week, where were you?

15 A I was employed by Simon & Schuster
16 Publishing.

17 Q And in what capacity were you employed by
18 Simon & Schuster?

19 A I was a typist for Mrs. Clinton.

20 Q And I take it this is related to her book
21 "It Takes a Village."

22 A That's correct.

1 Q And when did you start your work with Simon
2 & Schuster?

3 A Mid-September.

4 Q Mid-September. And at the time when you
5 were working as a typist for Simon & Schuster, did
6 you hold any other employment?

7 A No, I resigned my employment to work for
8 Simon & Schuster.

9 Q Okay. And until when did you work for
10 Simon & Schuster?

11 A Until December, this December.

12 Q And so from December until last week, were
13 you employed or --

14 A No, I was voluntarily there.

15 Q You were "voluntarily there" being?

16 A The White House.

17 Q The White House?

18 A Uh-huh.

19 Q What were you doing at the White House in
20 this voluntary period?

21 A I was in the social office.

22 Q And this was from sometime in December to

10

1 as of last week?

2 A Right.

3 Q And you said you resigned your position in
4 order to take your job with Simon & Schuster?

5 A Correct.

6 Q What position was that?

7 A I had a temporary staff position with the
8 social office for the Christmas season 1995.

9 Q And I'm sorry, when does the Christmas
10 season start?

11 A I was supposed to have been employed from
12 September through December, but I resigned.

13 Q You resigned. Okay. When did you -- did
14 you ever work for the social office prior to December
15 of 1995?

16 A Well, I was an intern there.

17 Q You were an intern. Okay. When were you
18 an intern?

19 A I was there from August of 1994 to August
20 of 1995 while I was in school.

21 Q This was a part-time internship?

22 A Well, I was there every time I wasn't in

1 class. Internship/volunteer.

2 Q And to whom did you report while you were
3 an intern in the social office between August 1994
4 and August 1995?

5 A To Ann Stock and Robin Dickey.

6 Q And what is Ms. Stock's title?

7 A Social Secretary.

8 Q And what is Mrs. Dickey's title?

9 A Deputy Social Secretary.

10 Q And so you were an intern for the social
11 office from August '94 to August 1995 and at which
12 point you became a typist for Simon & Schuster?

13 A Well, I became a typist for them
14 mid-September.

15 Q Mid-September?

16 A Right.

17 Q Did you do anything between August 1995 and
18 mid-September 1995?

19 A Well, I had just accepted the temporary
20 staff position.

21 Q Okay.

22 A But resigned.

1 Q And to whom did you report while you were
2 temporarily in this temporary staff position?

3 A Ann Stock and Robin Dickey.

4 Q Same?

5 A Same.

6 Q And the same persons when you reported back
7 in December and January of 19 -- in January 1996 and
8 February of 1996 until last week?

9 A Right, right, when I was volunteering.

10 Q And to whom did you report when you were at
11 Simon & Schuster?

12 A Simon & Schuster, I would work in the White
13 House. So I really reported, I worked with
14 Mrs. Clinton. I typed as she wrote.

15 Q While you were at the social office, did
16 your job include any recordkeeping duties?

17 A Well, we work on gate list.

18 Q Gate lists?

19 A I mean, I guess you'd consider those
20 records, but no, no official.

21 Q "Gate list" meaning the list of guests for
22 functions?

- 1 A Right.
- 2 Q Did you handle any sort of financial
- 3 records?
- 4 A Oh, no, no.
- 5 Q Where was your office in the White House
- 6 when you were working at the social office?
- 7 A The East Wing, Suite 200.
- 8 Q And where did you primarily work when you
- 9 were working for Simon & Schuster as a typist at the
- 10 White House?
- 11 A Third floor residence.
- 12 Q Did you have another office in the White
- 13 House besides your work space on the third floor of
- 14 the residence?
- 15 A During that time period?
- 16 Q Yes.
- 17 A I would sometimes, just if I was bored I'd
- 18 go to the social office, but no, I had to do all my
- 19 work in the third floor residence.
- 20 Q Can you tell me when was the first time you
- 21 entered the third floor residence?
- 22 A I believe it was Sunday, August the 6th.
-

- 1 Q And on what occasion did you enter the
- 2 third floor of the residence on the 6th?
- 3 A What do you mean by "what occasion."
- 4 Q Why did you go there?
- 5 A Because I was requested to come up.
- 6 Q By whom?
- 7 A Helen Dickey told me that Mrs. Clinton
- 8 would like to see me.
- 9 Q Did you know what about?
- 10 A Something about the book.
- 11 Q And that was the first time you entered the
- 12 third floor residence?
- 13 A Right.
- 14 Q When you were doing your typing work for
- 15 Mrs. Clinton, where was the primary space within the
- 16 third floor residence that you would do that?
- 17 A I generally didn't start typing until
- 18 September. I just did a few, maybe a couple of pages
- 19 in August. But I would either be in room 323 or room
- 20 319.
- 21 Q When you say "September," is that after
- 22 Mrs. Clinton came back from her China trip?

1 A Exactly. I believe that's where she was.
2 They went on vacation somewhere else.

3 Q She went on vacation in Wyoming and then
4 went straight to China.

5 A Right.

6 Q While the First Family was away, while
7 Mrs. Clinton was away, did you enter the third floor
8 residence?

9 A While she was away, I don't remember
10 entering the residence, no. Nope.

11 (Discussion off the record.)

12 BY MR. DINH:

13 Q You said you did most of your typing in
14 room 323 and room 319?

15 A Right. I believe that's the room numbers.

16 Q I will show you a diagram of third floor a
17 little bit later and ask you to verify that. But for
18 now let's go on some common parlance as far as --
19 what do you call room 323?

20 A Mrs. Clinton's office.

21 Q And do you call 319 "the book room."

22 A Yes.

1 Q And you said most of your work occurred
2 after mid-September when Mrs. Clinton came back from
3 her Beijing trip?

4 A Right, because I was only there two or
5 three days in August.

6 Q I'll return back to those two or three
7 days, but let me just focus your attention for now to
8 the period when you were working in room 323 and in
9 the book room.

10 A So you're referring to the period of time
11 after --

12 Q After September, more generally when you
13 were working more extensively on the book.

14 A Okay.

15 Q Approximately how did you divide your time
16 between the two rooms, half and half?

17 A It really just depended on the day as to
18 where I'd work.

19 Q But over the life of the project would you
20 work half of your time in -- would you say half the
21 time in the book room and the other half in
22 Mrs. Clinton's office?

1 A You could say that. I just don't think it
2 was an equal distribution -- I guess probably,
3 probably balanced out.

4 Q But you have no specific distribution that
5 you can put a finger on?

6 A No, I just decided where to work each day.

7 Q Who else worked in Mrs. Clinton's office
8 with you when you were working in Mrs. Clinton's
9 office?

10 A Okay. Well, Mrs. Clinton. Usually when I
11 was in her office, it would just be Mrs. Clinton or
12 I'd just be in there. That was when I was in her --
13 her office.

14 Q Her office in room 323?

15 A Right.

16 Q So it would be you typing and Mrs. Clinton
17 writing?

18 A I mean, anyone can come in.

19 Q But no one else was working there?

20 A Well, you have to understand. I was up
21 there for a large number of days from September
22 through December virtually every day. So generally

18

1 it would be Mrs. Clinton and myself or either just
2 myself up there in her office.

3 Q But you didn't share a desk with anybody?

4 A No, I didn't have a desk in there. I just
5 used their computer.

6 Q Now, turning then to the book room, when
7 you were working in there, did anybody else share the
8 space with you?

9 A Well, the people that were working on the
10 book did.

11 Q Who were the people working on the book?

12 A I think starting in October Liz Boyer would
13 come up sometimes. She did research and Lissa
14 Muscatine and Maggie Williams. And we were kind of
15 the core book crew.

16 Q And when you were working in the book room,
17 where would you work?

18 A Well, I'd either -- if I was working on the
19 computer that was set on the table, I'd work at the
20 table or if I had the laptop I'd just work anywhere
21 in the room.

22 Q On your lap?

- 1 A Right, exactly.
- 2 Q You said there was a table. Was there only
- 3 one table in the room?
- 4 A No.
- 5 Q How many tables were in the room?
- 6 A At the time that I was using it after
- 7 September, there was a table like this and then there
- 8 was a table across the end.
- 9 Q So the two tables forming somewhat of a T
- 10 shape?
- 11 A Right. There was a table here and a table
- 12 here.
- 13 Q Well, your drawing on the table won't show
- 14 up on the record so I'm trying to get it.
- 15 A Yes. There is also some side areas where a
- 16 typewriter was sitting and there was from time to
- 17 time that cart.
- 18 Q Let me just show you this, an exhibit that
- 19 I will ask to be labeled as Springfield Exhibit 1.
- 20 A Is this supposed to be the book room?
- 21 Q And let me ask you to take a look at that
- 22 and how it differs from your recollection as to the

20

- 1 book room in the early part of September when you
- 2 first started working on the book. You can go ahead
- 3 and make those changes with my pen.
- 4 A Okay. When I -- you want me to draw how it
- 5 was when I worked on the book?
- 6 Q Exactly.
- 7 A Okay (the witness complied.)
- 8 There was a table like this. This table
- 9 just turned. There was a table across the end like
- 10 this and the cart kind of floated.
- 11 Q The cart, did the cart have wheels on it?
- 12 A Uh-huh.
- 13 Q So it just got pushed around the room?
- 14 A Sometimes it was there and sometimes it
- 15 wasn't, I remember. There's a computer -- this table
- 16 is very, a lot smaller than this table actually.
- 17 There is a computer right here. This printer was
- 18 right here. Typewriter right here. You can move the
- 19 typewriter.
- 20 Q Go ahead and put in the typewriter there.
- 21 A And there's the laptop. Fax machine right
- 22 here.

1 MR. IVEY: Maybe it would be a good idea if
2 we labeled those different things.

3 MR. DINH: Right.

4 (The witness complied.)

5 THE WITNESS: Typewriter, is that okay?

6 BY MR. DINH:

7 Q That's fine, "TW" is typewriter. "Comp" is
8 computer, that's fine.

9 A "Print" is printer.

10 Q Okay.

11 A That's how I remember -- that's overall the
12 basic way it stayed.

13 Q And so when you worked you would have
14 worked at either one of these two tables?

15 A Well, I would work at this computer or I
16 would work at a chair somewhere with the laptop or
17 here, you know. There was also a little area right
18 here that you could put something.

19 MR. DINH: The record will reflect that
20 the witness indicated various positions around the
21 room.

22 BY MR. DINH:

1 Q Besides this core group of persons, let me
2 just focus your attention to the period, let's say at
3 the beginning, the first two weeks that you started
4 working --

5 A In September?

6 Q -- in September, the first two weeks when
7 you started typing and working in the book room.

8 A Right.

9 Q After Mrs. Clinton came back from her trip
10 to China?

11 A Okay.

12 Q Besides the core group of persons that you
13 have named thus far, Ms. Boyer, Ms. Muscatine and Ms.
14 Williams, can you recall anybody else?

15 A I'd like to make the statement that I
16 didn't start seeing much of them until probably the
17 1st of October. So there was really not many people
18 up there at first. And I didn't -- I gradually used
19 the book room more and more.

20 MR. IVEY: By the way, is there an exhibit
21 sticker yet?

22 (Springfield Exhibit 1 identified.)

1 BY MR. DINH:

2 Q You said at the beginning, that is the
3 first two weeks when you first started in September,
4 there weren't many people --

5 A Right.

6 Q -- in the book room?

7 A I think when I told you the main people I
8 saw right on a more regular basis, that was probably
9 the 1st of October.

10 Q Okay. Let's go to before you started
11 seeing those people, can you recall seeing anybody in
12 the book room in the --

13 A Capricia.

14 Q "Capricia" being Capricia Marshall?

15 A That's correct.

16 Q Did she use the space in the book room in
17 order to do some work?

18 A Well, Capricia uses the book room
19 occasionally. I don't know if she -- she just would
20 come in and get stuff.

21 Q Anybody else?

22 A Well, you know, it's just the butlers and

24

1 the ladies who work back here.

2 Q Leave aside the residence staff. Besides
3 the residence staff and Ms. Marshall, anybody else?

4 A I don't -- I mean, it all blends in the
5 period of time that I was in the book room, so I
6 don't -- those few weeks of September, I couldn't
7 tell you exactly who was in there. I'd see people
8 from time to time.

9 Q But your recollection is during this first
10 period there were few, very few people --

11 A Right.

12 Q -- in there?

13 A Right. It gradually increased.

14 Q It gradually increased at the beginning of
15 October?

16 A End of September, beginning of October,
17 yes. And that's when I began to be in there more,
18 too.

19 Q Let me turn your attention now back to the
20 occasion that you testified to earlier, that is on
21 Sunday, August 6th when you first entered the third
22 floor of the White House residence.

1 A Right.

2 Q Do you recall approximately what time you
3 entered?

4 A I had believed it was around 10:00 or
5 11:00. I believed it was a little bit prior to
6 lunchtime is my recollection.

7 Q Let me show -- and which way do you use
8 when you enter the White House residence?

9 A I usually go up the elevator.

10 Q Go up the elevator, taking it from the
11 ground floor?

12 A Or sometimes I stop in the usher's office.

13 Q And take it from the first floor?

14 A Exactly, kind of as a courtesy to them,
15 right.

16 MR. DINH: Let me show you now what I will
17 ask to be labeled Springfield Exhibit Number 2.

18 (Springfield Exhibit 2 identified.)

19 BY MR. DINH:

20 Q And let me represent to you that this is
21 what we have as the best diagram that is publicly
22 available for the third floor of the White House

1 residence, and let me explain. This dates back to
2 about the Truman Administration. And so let me
3 explain that there may be some, there may have been
4 some changes and I will point out the ones that are
5 relevant. As you can see, the top of the diagram is
6 the sun room, the solarium, and so the top is the
7 south --

8 A South portico.

9 Q South, facing upward is south.

10 A Exactly.

11 Q And you mentioned room 323 earlier. That
12 appears at the top right-hand corner of the diagram.

13 A Right.

14 Q And I will also call your attention to room
15 319 A --

16 A Right.

17 Q -- 319, 320, 321 and 322. And let me
18 represent to you that the room -- our understanding
19 is that room 320, 321 and 322, the walls between
20 those two rooms have been removed.

21 A I believe between these rooms.

22 Q Between 320 and 321 and the small portion

1 of the wall between 321 and 322 have been removed so
2 that all those three rooms and the bathroom that is
3 adjacent to those rooms now comprise the residence
4 exercise room.

5 A Correct.

6 Q Now you're properly oriented. Is room 323
7 the room you were talking about as Mrs. Clinton's
8 office?

9 A Yes, it is.

0 Q Is room 319 A on that diagram what you
1 identify as the book room?

2 A Yes.

3 Q And room 319, a small room off the --

4 A Where the ironing boards are.

5 Q Is that where the table linens are kept?

6 A Right.

7 Q And so you're approximately familiar with
8 this layout?

9 A Sure am.

0 Q Okay. And you testified earlier that when
1 you were working, typing for the book and starting in
2 mid-September on, you spent your time primarily in

1 319 A and room 323?

2 A Primarily, yes.

3 Q We were talking a minute ago about your
4 entries into the White House, specifically on August
5 6th, 1995.

6 A Right.

7 Q And let me show you a document that is
8 labeled S 020033 and let me represent to you that
9 this is a log maintained by the Secret Service at the
0 base of the elevator which you mentioned you used in
1 order to go to the third floor. Do you recall seeing
2 a Secret Service uniformed division officer sitting
3 by the elevator?

4 A On the ground floor?

5 Q Yes.

6 A Yes.

7 Q This is the log he maintains or he or she
8 maintains at that station. It is called the F1
9 movement log to and from living quarters. Let me
0 direct your attention to about halfway down the
1 page.

2 A Right.

1 Q This particular page is for Sunday, August
2 6th, 1995?

3 A Uh-huh.

4 Q And where I have my pen that is -- the
5 record indicates that Aprill Springfield went up,
6 that is entered the White House residence at noon and
7 the destination being the third floor.

8 Is that consistent with your memory?

9 A I thought it was a little bit earlier, but
10 not enough to make a big difference, I guess.

11 Q And you've mentioned earlier that
12 Ms. Dickey had called you?

13 A The night before, yes.

14 Q The night before and so you were going to
15 meet Ms. Dickey at the White House?

16 A She was going to take me up to meet
17 Mrs. Clinton.

18 Q So did she meet you at the elevator?

19 A I think she met me at the elevator.

20 Q Mrs. Dickey we're talking about?

21 A I think she actually -- I think I probably
22 went to the usher's office. She may have met me

30

1 there and taken the elevator up, but she knew I was
2 nervous so she met me.

3 Q Was this the first time that you were going
4 to meet the First Lady?

5 A First time I was going to meet her besides
6 shaking hands at an event, so the first time I was
7 really meeting her, I guess you could say.

8 Q And then what happened when you got up to
9 the third floor of the residence?

10 A She took me into room -- Helen being
11 "she" -- took me into room 323.

12 Q Which is the First Lady's office?

13 A Correct, yes. And I just stayed in there
14 until I met Mrs. Clinton.

15 Q You waited for Mrs. Clinton?

16 A Right.

17 Q In room 323?

18 A Correct.

19 Q How long did you wait?

20 A I don't remember. It wasn't that long.
21 Maybe 30 minutes, an hour.

22 Q And then Mrs. Clinton came in?

1 A Right.

2 Q And you talked to Mrs. Clinton?

3 A Right.

4 Q What did you talk about?

5 A She just said thank you for coming up. If
6 I remember, I mean it's hard to remember this far
7 back exactly. Just basically, you know, said that if
8 I could help her out some and we just kind of small
9 talked.

10 Q And you understood that you would be
11 helping her to type portions of her book?

12 A For that day. There was no long term, we
13 were just, you know -- she was going to, I guess, try
14 me out and see.

15 Q How long did you stay at the White House
16 that day?

17 A Well, I didn't think that long. A couple
18 of hours maybe. Do these records probably -- three,
19 two, three, four hours.

20 Q And you said you did some typing for her
21 that day?

22 A I typed a little bit that day just to see

1 if I could read her writing just a little bit.

2 Q And where did you do that work?

3 A I had a laptop and sat on the sofa in 323.

4 Q Was that the sole place that you did your
5 work that day?

6 A That I did work, yes.

7 Q Did you get a tour of the White House
8 residence that day?

9 A Well, you could call it that. Helen -- if
10 I remember correctly, Helen walked me, I think, prior
11 to the time I saw Mrs. Clinton, Helen walked me -- I
12 expressed an interest in seeing the exercise room so
13 she walked me through here and showed me briefly the
14 exercise room.

15 Q Okay. Let me just unpack that step by
16 step. When you said "through here," were you in room
17 323 when the tour started?

18 A Right.

19 Q You were there. So you left room 323
20 through the door what on the diagram is 356?

21 A Right.

22 Q And you enter into room 319 A, the book

- 1 room --
2 A Yes.
3 Q -- at door 342 on this diagram?
4 A Right.
5 Q And then you walked through door 355?
6 A Yes.
7 Q Which is the entrance into the exercise
8 room?
9 A Yes.
10 Q How long did you stay in the exercise room?
11 A Briefly, just enough time to kind of peek
12 in and look in.
13 Q Five minutes?
14 A Probably.
15 Q Did you -- when you first came in from door
16 342 to door 355, did you go straight from door 342 to
17 door 355?
18 A Right.
19 Q You opened up the door to the book room and
20 walked straight into the exercise room?
21 A Right.
22 Q You didn't stay in the book room, you
-

- 1 didn't --
2 A We just walked through.
3 Q How long of a walk is that?
4 A A matter of a few steps.
5 Q Few steps. So you walked straight through
6 just to get to the exercise room?
7 A Right.
8 Q And then when you left, you left through
9 door 355, I take it?
10 A Yes.
11 Q And then you exited through door 355 to
12 door 342?
13 A Right.
14 Q Did you linger in the book room at all,
15 that is, in room 319 A between you taking the steps
16 between those two doors when you left?
17 A It's not exactly the type of room you
18 linger in. No, I didn't.
19 Q What do you mean by "it's not exactly the
20 type of room you linger in"?
21 A I just remembered it looked like a messy
22 closet.

1 Q But it's bigger than a closet; correct?

2 A Uh-huh.

3 MR. IVEY: That's a yes?

4 THE WITNESS: Yes, it is, sorry.

5 BY MR. DINH:

6 Q Did you have a chance -- during this brief
7 walking in and out in order to get to the exercise
8 room, did you have a chance to study the room at all
9 other than noting it was a messy closet, it looked
10 like a messy closet?

11 A Now, obviously, I have a memory from
12 spending months in there. That first occasion all I
13 remember is the impression, I don't know if my
14 memories now are from the months I've spent in there
15 or from that first occasion; I would say that they're
16 from the months I've spent in there. In which case,
17 I just remember my initial impression is that this is
18 not a room I would expect to find in the White House.

19 Q When you were working there, did the
20 atmosphere change, was it more habitable as an office?

21 A I think it's pretty chaotic all the time.

22 Q Besides the activities that were going on,

36

1 I meant the actual physical presence of the room, was
2 it cleaned up when you had your computers and
3 printers in there?

4 A I mean, I think there were some -- it may
5 have been straightened a little bit. I just remember
6 it, I don't think I've ever seen that room really
7 clean.

8 Q Even when you were working there doing the
9 typing and doing the production work for the book, it
10 was still pretty messy?

11 A Oh, probably messier.

12 Q Was it messier because of your work on the
13 book?

14 A Right.

15 Q And the materials you used for the book?

16 A Oh, sure.

17 Q Were there other materials lying around the
18 book room other than the materials that you needed to
19 use for the --

20 A There's lots of books in the room and, you
21 know, that kind of stuff sometimes --

22 Q Were the books shelved?

1 A Yes, I mean they were shelved unless
2 someone would pull them off the shelves, but they
3 were shelved. But, I mean, most of the stuff, you
4 know, Liz's research stuff for the book, the
5 manuscripts I was typing; from everywhere, so.

6 Q But I take it there were boxes lying around
7 the room when you were -- this is when you were
8 working there in September?

9 A Right. When I was working there, there
10 were always boxes because there was always stuff
11 that, say, Capricia was coming to move out just
12 knickknack kind of things that were in that room. It
13 was kind of like, I guess, the Clintons would get
14 gifts and they would go up to that room sometimes and
15 be moved to other places.

16 Q There were boxes sitting around?

17 A That type of boxes, right.

18 Q I take it there were some on the floor and
19 around the room?

20 A On the cart -- there is never really any
21 particular place for them, to be quite honest.

22 Q Now let me try to focus your attention now

1 to the first time you went into the book room, that
2 is on August 6th.

3 A Right.

4 Q And I know that you said that your memory
5 of the book room is somewhat merged with --

6 A I would just assume that my memory is based
7 on the majority time I spent in there.

8 Q Did you have an opportunity on August 6th
9 to look around the book room?

10 A Well, I glanced around and noticed, you
11 know, stuff hanging on the walls and just, like I
12 said, I just remember the room being extremely
13 cluttered and that's my main memory of that room. I
14 didn't pay much attention to it because it is kind of
15 a passing through room.

16 Q You did not linger, you simply -- you were
17 in the book room only to get to the exercise room and
18 to get out of the exercise room?

19 A Exactly.

20 Q And incident to this passing through, you
21 noticed that the room was cluttered?

22 A Right. And I'm sure I noticed the books

1 because I'm always interested in what people are
2 reading, so other than that, I know I was interested
3 in the books. But other than that, I just don't
4 think I remember anything particular about that room.

5 Q Do you recall anything being in the room?

6 This is now August 6th, 1995.

7 A I think the cart was there. The bigger
8 cart.

9 Q The one that you had indicated earlier?

10 A This, I think the one that's indicated

11 here. It's a larger push --

12 MR. DINH: The record will reflect the
13 witness pointed to Exhibit 1 Springfield and pointed
14 to the object labeled on the exhibit there as
15 "cart."

16 THE WITNESS: Right.

17 BY MR. DINH:

18 Q Understandably. And you thought that was
19 there. Did you notice a table being there?

20 A Sure. There was a table.

21 Q There was a table?

22 A I couldn't tell you exactly how it was at

1 that time, though. I just remember there being a
2 table.

3 Q Did you recall whether there was stuff on
4 the table or was it a clean table?

5 A I don't think anything that struck me as
6 really uncluttered in that room.

7 Q The table included?

8 A Right.

9 Q You said that's a more general impression
10 rather than any specific recollection?

11 A Exactly.

12 Q Did you take note of any items in
13 particular that were on the table?

14 A Not that I recall.

15 Q None of the books that piqued your
16 interest, for example, were lying on the table?

17 A No, not lying on the table. I mean, I
18 noticed books, but not on the table.

19 Q And then after you got your tour of the
20 exercise room, did you go back to room 323?

21 A No.

22 Q Where did you go?

1 A I went to the solarium and I went to down
2 this corridor, the main corridor, I believe I looked
3 in several of these back rooms. Basically I remember
4 seeing 302 and 301 on that first tour.

5 Q But you would get a subsequent, more
6 comprehensive tour of the third floor residence?

7 A Eventually -- no one gave me a tour, I just
8 kind of explored, but that was later.

9 Q And by "later," you mean after
10 mid-September?

11 A Right.

12 Q When you came back and did more extensive
13 work and spent more time in the White House
14 residence?

15 A Right.

16 Q And then you returned to room 323?

17 A On that day in August, yes.

18 Q And now all of what we've been talking
19 about regarding this tour, such as it was, of the
20 third floor residence, this occurred in the
21 approximate one-hour period when you were waiting for
22 Mrs. Clinton?

1 A Yeah, 30 minutes to -- it was a really
2 quick kind of here are the highlights of the third
3 floor.

4 Q And then you returned to room 323 to wait
5 for Mrs. Clinton?

6 A Right.

7 Q And then you did work for Mrs. Clinton that
8 day, a couple of pages, you testified, in room 323?

9 A A few pages. I think I basically just kind
10 of got acquainted with her and such. I mean, I typed
11 a few pages, no big deal kind of work.

12 Q And you said this entire visit lasted for
13 about two or three hours?

14 A I think I said three or four.

15 Q Three or four hours?

16 A I think that's what I said. In my memory,
17 that's what I remember.

18 Q That's perfectly fine. And when you
19 finished typing, did you leave directly from room 323
20 or did you go elsewhere on the third floor?

21 A Oh, no, I went back to the ushers office.

22 Q You went back down to the ushers office on

- 1 the first floor?
- 2 A I went to the ushers office.
- 3 Q You left from there?
- 4 A Sure did, yes.
- 5 Q Did you go anywhere else on the third floor
- 6 residence?
- 7 A That day, no.
- 8 Q Besides this one instance that you have
- 9 described to me, that is going through the book room
- 10 in order to get to the exercise room on the first day
- 11 on August 6th, 1995, and the period that the -- and
- 12 the time when you started spending more time in both
- 13 in the book room and in room 323 later in September
- 14 and October when you came back, can you recall any
- 15 other time when you were in the book room or in the
- 16 exercise room?
- 17 A In the book room or the exercise room in
- 18 August?
- 19 Q In August.
- 20 A No.
- 21 Q Now, let me turn now to the next, let me
- 22 turn now to the next time you were in the book room.

- 1 Do you recall approximately what date it was that you
- 2 first started working again in the book room?
- 3 A Okay. You mean, so the book room itself,
- 4 not Mrs. Clinton's office?
- 5 Q Right.
- 6 A I would say it was probably around
- 7 somewhere between the 12th and the 14th of
- 8 September. That's my best estimate. And it was a
- 9 gradual progression to the book room, so I probably
- 10 was in there at some point in those days.
- 11 Q You say "gradual progression." You first
- 12 started working out more in room 323?
- 13 A Right.
- 14 Q And then you find yourself spending more
- 15 and more time working in the book room?
- 16 A Exactly.
- 17 Q So when you first started, when you first
- 18 started to do more extensive typing for Mrs. Clinton
- 19 in September, did you start working in room 323 at
- 20 first?
- 21 A I believe so. Because that computer was
- 22 usually always available.

1 Q And then gradually you moved to the book
2 room?

3 A Right. And then I would daily decide which
4 room I'd work in or she would decide.

5 Q Depending on availability of the space or
6 availability of the computer?

7 A Or just comfortability of where I wanted to
8 work. Sometimes I'd take a laptop in the hall.

9 Q Let me turn your attention to this date,
10 the next date that you would enter the book room.
11 You said it was either the 12th or the 14th to the
12 best of your recollection?

13 A Right.

14 Q I refer you back now to Springfield
15 Exhibit 1, which is the layout of the book room which
16 you had marked on earlier.

17 A Okay.

18 Q And let me ask you, to the best of your
19 recollection, what was the layout of the room on that
20 day?

21 A The one way I remember the room is how I
22 have drawn it. Okay. Now, I do not think the

1 computer was in this -- I know the printer was not
2 there. The printer we had to call for. It was maybe
3 October before the printer came. I think the fax
4 machine came a few days after the book room became
5 functional as another unit for us. The computer, I'm
6 not sure if the computer was there or not, but I know
7 the printer was not. And I believe the tables were
8 situated like this.

9 Q Like the way you have drawn it?

10 A I think they were arranged like that.

11 Q So from the time that you started working
12 there until the time that you continued working there
13 and finished working there, the layout of the room
14 pretty much remained the same?

15 A The table may have been pulled from this
16 position to this position.

17 Q That is horizontal instead of like in a T?

18 A Right, horizontal to vertical. Because I
19 know now -- "now" as in now currently, the table is
20 back like this, how it used to be.

21 Q "Back like this" meaning against the wall?

22 A Exactly.

1 Q Being against the west wall of the book
2 room?

3 A Right.

4 Q And what about the other table?

5 A I believe that was at the time the table
6 was arranged like this, as I've drawn it, this table,
7 the additional table, was also brought in.

8 Q Was also brought in. When the tables were
9 moved so that the large table is parallel to the
10 wall, what happened to the smaller table that formed
11 a T of the prior arrangement?

12 A Well, that's what I mean. I think that's
13 when the T table was brought in.

14 Q Was brought in so it was removed when
15 the --

16 A I'm assuming it was. It may have been in a
17 corner, I don't know, but that's how I remember it,
18 is the arrangement.

19 Q Okay. But to the best of your
20 recollection, in September 12th or 14th when you
21 first came into the book room to work in there, the
22 arrangement was as it is, as you have drawn it on

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1 Exhibit 1 here?

2 A Right.

3 Q And for the most part when you were working
4 there, it remained in this position?

5 A Well, yes, yes, until the book was
6 published.

7 Q Until the book was published. Okay. And
8 when you first came in there, and you can focus, you
9 know, just that one particular time when you came
10 back into the book room, were there boxes or anything
11 else on the tables?

12 A On the tables?

13 Q On the tables themselves, were the tables
14 clear?

15 A This is September you are talking?

16 Q This is September 12th or 14th when you
17 first came into the book room, the first time that
18 you had worked in there.

19 A There was usually like picture books or
20 something. Like I said, I never recalled a time when
21 those tables were clear. I mean, I just on -- I
22 didn't know I'd ever be asked about this so I didn't

1 take notice of stuff like papers lying around.

2 Q Fair enough. I'm just asking for your best
3 recollection.

4 A So I don't even -- my recollection is
5 still, you know, clutter, like with the knickknacks
6 and the books.

7 Q But there was enough space for you to work
8 on the table?

9 A Oh, sure.

10 Q For you to place a computer or laptop or
11 something in order to have space?

12 A Right, it was clean in that regard, it was
13 enough space to find places to work.

14 Q Were there boxes on the table?

15 A I don't believe there were boxes on the
16 table. There were always boxes in the room, though.

17 Q Always boxes in the room, but not boxes on
18 top of the table?

19 A Not that I recall at that time.

20 Q Were there boxes underneath the table?

21 A No, I don't think there were. I don't
22 remember boxes being underneath these tables.

50

1 Q The two large tables. Okay.

2 A Boxes would be under, there is like a
3 pull-out thing here.

4 MR. DINH: The record will indicate the
5 witness was pointing to the shelf on the south wall
6 of the room -- of the diagram.

7 BY MR. DINH:

8 Q But there was enough space on the table
9 that you can clear a space for yourself when you
10 needed to work?

11 A Oh, sure.

12 Q There was just knickknacks, but no filing
13 boxes or anything like that?

14 A I don't believe so. Those would have
15 probably been on the cart if there were.

16 Q Again, I'm just focusing your attention to
17 that first day you came back, September 12th or the
18 14th.

19 A Right.

20 Q Can you describe to me, to the best of your
21 recollection, what the knickknacks were, what type of
22 knickknacks?

1 A Well, I mean, I can describe specific
2 knickknacks that sit around the room if that's what
3 you'd like. As far as the one --

4 Q I'm talking on the table.

5 A I don't really remember any, nothing really
6 stands out. I remember ones that were there for a
7 period of time around the room, but not that specific
8 day or on the table, no.

9 Q Let me call your attention then to August
10 7th, the day after your first day with Mrs. Clinton.

11 A I was there that day.

12 Q With Mrs. Clinton. You say you were there
13 that day?

14 A I believe so.

15 Q In the White House?

16 A Yes.

17 Q Let me show you now an exhibit numbered S
18 020022 and let me represent to you that this is a
19 record of the daily schedule of the First Family, or
20 the entries and exit into the third floor of the
21 residence maintained by the White House ushers
22 office, maintained by the duty usher at the office

1 where you said you had stopped in from time to time
2 as courtesy to them.

3 A They're friends, right.

4 Q This is the record that they maintain in
5 their computer system. And this is the one for
6 Monday, August 7th and it shows that you at 9:30,
7 Aprill Springfield to the third floor.

8 A Right.

9 Q Do you recall this particular instance?

10 A Sure.

11 Q For what purpose were you returning to the
12 White House?

13 A Mrs. Clinton called me.

14 Q When did she call you, did she tell you to
15 come back the next day?

16 A She called -- I remember being shocked
17 because I got a phone call from her at the office and
18 I didn't expect to ever hear from her, you know, I
19 didn't know.

20 Q At the office?

21 A The social office where I was an intern.

22 Q This is the morning on Monday, August 7th?

- 1 A Right.
2 Q I take it when you get a phone call from
3 the First Lady --
4 A The first time you do, you remember, and
5 then you don't remember so good.
6 Q And then she asked you to come to the
7 residence?
8 A Right.
9 Q Did she tell you why?
10 A To help her out.
11 Q Again, typing for the book?
12 A Exactly.
13 Q Do you recall how long you were at the
14 residence on this particular day, August 7th?
15 A No, I know I went back to my office and did
16 some work after, so that would make me think I wasn't
17 there more than several hours.
18 Q And during this period of several hours
19 that you spent on August 7th, 1995, where did you
20 spend it?
21 A Room 323.
22 Q Room 323?
-

- 1 A Yes.
2 Q Only in room 323?
3 A To my memory, to the best of my memory,
4 yes.
5 Q You didn't take another tour?
6 A No.
7 Q Did you have occasion to go in the book
8 room for anything?
9 A On that day, no.
10 Q Did you need to go to any other part of the
11 White House residence, like to a bedroom or anything
12 to retrieve something for Mrs. Clinton?
13 A I don't remember. Like I say, I don't
14 remember doing that.
15 Q So to the best of your recollection, you
16 spent your time on that day solely in room 323?
17 A Right.
18 Q Incidentally, do you know who Barbara
19 Feinman is?
20 A Sure, she was up there the first two days I
21 was there.
22 Q The first two days you were there?

1 A Right. And then I didn't ever see her
2 again.
3 Q "There" being in room 323?
4 A Yes.
5 Q Was she working in room 323 when you were
6 waiting for the First Lady on August 6th?
7 A Yes.
8 Q And she was working with you on August 7th
9 when you were typing?
10 A Right. She was at the computer.
11 Q And where were you in the room?
12 A At the sofa.
13 Q At the sofa with the laptop, I take it.
14 A Yes.
15 Q And Mrs. Clinton was also working in the
16 room?
17 A Those first two days she'd come and go.
18 Q And you said that after these first couple
19 of days you never saw Barbara Feinman again?
20 A No, I never saw her.
21 Q When was the next time you entered the
22 White House residence after August 7th, 1995?

1 A Now, I had to go to the residence
2 technically every day because we call the mansion the
3 residence. The private residence, I wasn't invited
4 back until after they had -- "they" being the
5 Clintons -- had returned from their various trips.
6 Q Now by "the private residence" you mean the
7 second and third floor of the residence?
8 A Exactly. The residence itself I consider
9 the ground state, and upper floors.
10 Q Including the public areas of the White
11 House residence?
12 A Exactly.
13 Q You said you go in there almost every day
14 incidental to your position in the social office?
15 A Correct.
16 Q But your office is over in the East Wing?
17 A Right, we have to pass over to get to the
18 West Wing.
19 Q So in September, and was September 12th or
20 14th the first time that you recall being back in the
21 White House residence?
22 A I tell you it was around the second week of

1 September and I think to the best of my, you know,
2 looking back I think it had to have been around
3 the -- sometime between the 12th and the 14th. I
4 know definitely by the 14th.

5 Q But between August 7th and let's say the
6 time Mrs. Clinton left for her trip in Wyoming, you
7 never entered the White House --

8 A If the logs have me up there at one more
9 point -- you know, maybe the day after that Monday.
10 I just do not remember going back up there until I
11 was called again when she returned. Nothing made an
12 impression in those times, I don't remember.

13 Q Did you talk with Mrs. Clinton -- I take it
14 you talk with her on a fairly regular basis when you
15 were typing for her?

16 A Sure.

17 Q Did you talk with her on the subjects other
18 than the book?

19 A Oh, sure.

20 Q What did these subjects -- more general,
21 did they just involve pleasantries?

22 A Exactly. I mean, we just talked about

1 anything that came to mind, you know. Telling jokes
2 or, you know, talking about the week or whatever.

3 Q Did you ever talk about Whitewater
4 Development Corporation?

5 A No, not to my memory.

6 Q How about Madison Guaranty Savings & Loan?

7 A No.

8 Q How about the Rose Law Firm?

9 A I don't remember talking about it. I know
10 she wrote about the Rose Law Firm in the book. So
11 unless it came up in conjunction with that, no
12 specific memories.

13 Q She didn't talk about when she was a
14 private lawyer at the Rose Law Firm or anything like
15 that?

16 A Well, she may have mentioned being a lawyer
17 at the Rose Law Firm because, of course, we
18 discussed, you know, her career back from when she
19 was younger up. But in other words, I don't have any
20 specific Rose Law Firm conversation memory. But it
21 may have come up.

22 Q Did you discuss Vincent Foster?

1 A With her, I do not believe so. I mean, he
2 also came up in the process of writing the book in
3 the sense that he was mentioned. So, like I said,
4 anything that came up in the book could have been
5 discussed, but doesn't ring a bell, no.

6 Q Did she -- did you talk to anybody about
7 the handling of papers --

8 A The handling of papers, no.

9 Q In Mr. Foster's office after his death?

10 A No, I didn't talk to anyone about handling
11 of papers.

12 Q Did you have any conversations with
13 Mrs. Clinton regarding Capital Management Services?

14 A Absolutely not. I wouldn't have known what
15 she was talking about.

16 Q How about Seth Ward, did you ever have any
17 conversation with Mrs. Clinton about him?

18 A No, not with Mrs. Clinton.

19 Q Did you have any conversation with anybody
20 else about Seth Ward?

21 A No, I may have seen his name on the guest
22 list, but no, I had -- no.

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1 Q Did you get to see the guest lists?

2 A I'm talking social office.

3 Q The social office?

4 A Exactly. See, I worked on those, right.
5 That's why it rings a bell.

6 Q Independent of this, besides this, I take
7 it when you were working for Mrs. Clinton typing on
8 her book, you were not still volunteering for the
9 social office?

10 A Right. I mean, if I didn't have anything
11 to do for her, I would just go and help out
12 sometimes, but it was voluntary.

13 Q Let me ask you this, do you recall any
14 specific time that you saw Seth Ward's name on a
15 guest list while you were in the social office?

16 A No, and honestly I don't -- I just know the
17 name rings a bell, but I don't remember any
18 conversations and I couldn't tell you if I've seen
19 him on the guest list. I thought that's how I -- I
20 don't know. I just don't know.

21 Q Did you have any conversations with
22 Mrs. Clinton about any billing records of the Rose

1 law firm?

2 A No.

3 Q Did you have any conversations with anybody
4 else in the White House regarding any billing records
5 of the Rose Law Firm?

6 A No.

7 Q I know I asked you these questions with
8 respect to Mrs. Clinton. Let me ask you more
9 generally. Did you have any conversation with anyone
10 in the White House regarding Whitewater Development
11 Corporation?

12 A No.

13 Q With anyone in the White House regarding
14 Madison Guaranty Savings & Loan Association?

15 A No. I mean, except in passing from
16 newspaper stories. I mean, it may have come up, but
17 I don't remember any specifics.

18 Q How about anything, any discussions at the
19 White House that you can recall regarding Capital
20 Management Services?

21 A No.

22 Q And then other than that Seth Ward's name

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1 rings a bell, do you recall any other discussion with
2 anyone in the White House regarding Seth Ward?

3 A No.

4 Q Incidentally, did you use the exercise room
5 when you were working on the third floor residence?

6 A I'd sometimes watch TV in there.

7 Q There's a cabinet with a TV and VCR in
8 there?

9 A Right, and radio.

10 Q Did you use any of the exercise equipment
11 or anything like that?

12 A Except for maybe standing on the treadmill
13 for a minute, no, I never worked out there.

14 Q While you were working in the book room
15 and, you know, the occasional time you were in the
16 exercise room --

17 A I'd use the phone in the exercise room
18 sometimes.

19 Q Did you observe anybody exercising in the
20 exercise room?

21 A Sure.

22 Q Who?

1 A You mean, you're talking September
2 through --

3 Q September generally, yes.

4 A Well, I mean, I couldn't tell you any
5 specific dates, but people use the exercise room
6 quite frequently.

7 Q And who would these people be? Would some
8 house guests use the exercise room?

9 A Sure. Family members, basically.

10 Q Family members. Does Ms. Marshall use the
11 exercise room?

12 A I've never seen her work out.

13 Q Have you seen any other, any staff members
14 besides family members and --

15 A Staff members work out, no, I never did.
16 House guests, family members.

17 Q Incidentally, when you said that on August
18 6th when you first met Ms. Dickey, you said that you
19 had expressed an interest in the exercise room and
20 that's why Helen took you into the exercise room.
21 Did she tell you about the exercise room, is that
22 where you got your knowledge about it?

1 A Well, I didn't, you know, obviously I knew
2 there was one up there so I was curious to see it. I
3 didn't know -- she was like you want to see anything
4 on the third floor. I knew there was an exercise
5 room and a solarium so I asked to see the two things
6 I knew about.

7 Q Is that common knowledge that there is a
8 solarium and exercise room among White House staff?

9 A Well, I don't know if it's -- I don't know
10 if it was common knowledge. I mean, but somehow or
11 another I knew it, so.

12 Q Focusing solely on the two days in August
13 6th and August 7th that you had testified to
14 earlier.

15 A Right.

16 Q Other than your own and Ms. Dickey's entry
17 and exit into the book room in order to get access to
18 the exercise room, did you see anybody else entering
19 or exiting the book room?

20 A Not that I recall, but the residence staff
21 quite frequently will go in and out, so I may have
22 observed that.

1 Q When you were working in room 323, is the
2 door closed?

3 A When I'm working in room 323? Sometimes,
4 but, you know, it just depends. I mean, the door
5 would sometimes be closed and sometimes open. It
6 stays open if you want it to.

7 Q There's no automatic closer on the door?

8 A In room 323, no.

9 Q How about when you were working in the book
10 room, did that door have an automatic closer on it?

11 A If I wanted it open, I usually would put a
12 wooden wedge thing.

13 Q Kick it under the door?

14 A Right.

15 Q It does have an automatic closer on it?

16 A Sure, it closes, I mean it stays closed.

17 MR. IVEY: I'm sorry, which door was that,
18 323 or 319?

19 THE WITNESS: 319, 319.

20 BY MR. DINH:

21 Q Now you had mentioned earlier that you had
22 a conversation with Ms. Dickey with respect to this

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1 August 6th, 1995 --

2 A Right.

3 Q -- brief tour --

4 A Right.

5 Q -- that you had described to us. When did
6 you have this conversation?

7 A Last week sometime. I guess the day before
8 she had to go before the hearing, the Committee.

9 Q The day before she testified here at the
10 Senate Whitewater committee?

11 A Exactly.

12 Q And she testified on Valentine's Day,
13 February 14th?

14 A Right. I talked to her on the 13th.

15 Q On the 13th?

16 A Right.

17 Q Did you call her? Did you call her to talk
18 to her?

19 A No, I saw her.

20 Q You saw her?

21 A Uh-huh.

22 (Discussion off the record.)

1 (The reporter read the record as requested.)
2 BY MR. DINH:
3 Q This was on February 13th, 1996; correct?
4 A Yes.
5 Q When you saw Helen Dickey?
6 A Right.
7 Q Why did you see her?
8 A Well, she was in visiting her mother in the
9 office.
10 Q "In the office" being the social office?
11 A Right.
12 Q And you were also working in the social
13 office?
14 A I was downstairs in the visitors office.
15 Q And then?
16 A I went upstairs.
17 Q You went upstairs to see Ms. Dickey?
18 A Yes.
19 Q And how did the subject of the August 6th,
20 1995 entry into the White House residence come up?
21 A Okay. This is -- I had just gotten a call
22 from White House counsel saying I had to come here

1 and, quite honestly, I was very frightened. And so I
2 went upstairs to talk to Helen's mother who is kind
3 of my surrogate mother you might say.
4 Q This is Mrs. Dickey, Robyn Dickey?
5 A Exactly. And Helen was there and my memory
6 of how this came up, I said why do they want to talk
7 to me, I was there two days in August. All I
8 remember is going into the room, walking into the
9 exercise room and walking up to the solarium and
10 leaving. And Helen said what did you just say, and I
11 said walking into the exercise room. She says but I
12 don't remember going into the exercise room and I
13 said, well, you showed it to me and she said oh. So
14 that's how it came up. And then she said we better
15 just not talk about this.
16 Q Did she say that she remembered giving you
17 the tour?
18 A Well, she kind of did then, but, see, this
19 was my first day, so it's very clear to me. Later
20 dates I couldn't tell you what rooms I went into, but
21 my first day I could. For Helen, this is day number
22 999 -- I mean, she had been there so many days it

1 just didn't ring a bell walking into the exercise
2 room, so that's why she corrected, I guess, what she
3 had said earlier.

4 Q She said after this brief exchange when you
5 said that you remembered going into the exercise room
6 and she said she doesn't remember that, she said that
7 we shouldn't talk about this anymore?

8 A Well, because we were confusing each
9 other. I mean, we just really were confusing each
10 other so -- and I was already upset anyway, so we
11 just stopped talking about it.

12 Q You stopped talking about the August 6th,
13 1995 --

14 A Right. I mean.

15 Q -- entry?

16 A We just, you know, we really just confused
17 each other because I remembered it differently than
18 she remembered it, and, you know, she obviously
19 corrected her memory on camera.

20 Q So you talked -- you stopped talking about
21 the August 6th, 1995 entry in particular or did you
22 stop talking about the entire subject of the book

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1 room in general?

2 A Well, there really wasn't much more to talk
3 about. They just assured me it would be okay because
4 I was concerned.

5 Q And I take it then that consistent with
6 your prior testimony, you haven't talked with
7 Ms. Dickey regarding this particular subject matter
8 since that day?

9 A Well, I talked to Robyn on a daily basis.

10 Q On this matter?

11 A Oh, on August the 6th, no. That was, I
12 mean, said once.

13 Q Did you talk with Helen Dickey on this
14 subject matter?

15 A No, I mean, I think -- no.

16 Q I'm sorry. It starts getting confusing
17 when there are two Dickeys involved.

18 A - I know. Sorry.

19 Q I want to show you a stack of records that
20 have been Bates stamped DKS N 028928 through DKS N
21 029043 and let me briefly describe them to you before
22 I hand them to you. They are a stack of documents

1 about 1-1/4 inch thick measuring approximately
2 11-by-17 inches, and they look approximately to be
3 photocopies of computerized printout, and
4 interspersed in between are some 8-1/2-by-11 sheets
5 of paper. And so some of the photocopies, they are
6 colored copies reflecting some red handwritings on
7 the photocopies of the computer printouts.

8 A Right.

9 Q And let me just hand these to you and ask
10 you to take about a minute to take a look at those.

11 (Discussion off the record.)

12 (Witness reviewed the document.)

13 BY MR. DINH:

14 Q Ms. Springfield, have you had a chance to
15 study those briefly?

16 A Yes, I looked through them.

17 Q Have you ever seen these documents before?

18 MR. GORDON: Other than when she was
19 interviewed by Independent Counsel?

20 MR. DINH: Yes, other than the one time
21 that she was shown by the Independent Counsel.

22 THE WITNESS: Other than the Independent

1 Counsel, I have not seen these. To the best of my
2 recollection, I have not seen these before.

3 BY MR. DINH:

4 Q Have you seen any documents that look like
5 this? And by "like this," I mean a sheet of
6 documents 1-1/4 inches thick measuring 11-by-17
7 inches?

8 A I do not remember seeing a document like
9 this.

10 Q Anywhere in the White House?

11 A No, anywhere in the White House I do not
12 remember seeing them.

13 Q Not in the book room?

14 A I do not remember seeing these documents in
15 the book room, no.

16 Q Incidentally you mentioned there was a
17 printer in the book room later on in September when
18 you were working on the book.

19 A Okay. I believe I said the printer was
20 brought up in October, I think it was even later,
21 yes.

22 Q Do you recall what kind of printer this

1 was?

2 A LaserJet. I mean, I don't know the exact
3 make of it.

4 Q But it's a laser printer?

5 A Yes.

6 Q And it prints on out on normal 8-1/2-by-11
7 paper?

8 A Right.

9 Q It was more of a text printer because most
10 of the book was text?

11 A It was just your standard printer.

12 Q Your standard laser printer?

13 A Right.

14 Q Have you had any discussions with anyone in
15 the White House regarding records that look like
16 this?

17 A No.

18 Q And by "records that look like this," I
19 mean 11-by-17, 1-1/4 inch thick.

20 A No, I have not had conversations.

21 Q Is there anything else you can remember
22 about these records or the book room in general that

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1 might help us in our investigation?

2 A That's a very broad question. If you have
3 any specific questions, I just, I don't know what
4 would help you that I would know, so I certainly
5 don't know anything about these records.

6 MR. DINH: Okay. That's fine. I have
7 nothing further.

8 EXAMINATION

9 BY MR. IVEY:

10 Q Let me ask you a few questions since we've
11 got the billing records here. You said that your
12 first time into the book room was August 6th --

13 A Yes.

14 Q -- 1995? And then you went back -- well,
15 you were back in the residence on August 7th?

16 A Yes.

17 Q Did you go into the book room on that
18 August 7th?

19 A I do not remember going into the book room
20 on the 7th.

21 Q And your recollections of the book room
22 from August 6th, if I recall your testimony, was that

1 you weren't sure if your recollection was based on
2 what you saw that day or what you may have seen?

3 A Right.

4 Q When you started working?

5 A The only thing I can tell you about that
6 initial memory of the book room is that it looked
7 like a cluttered closet and that did stick in my mind
8 because I would have never expected to see a room
9 like that in the White House.

10 Q Did you recall that there was a table in
11 the --

12 A Oh sure, there was a table. I do not
13 recall the position of the table, but I know there
14 was a table in there.

15 Q And I take it you didn't pay any attention
16 or much attention to what was on the table at the
17 time?

18 MR. DINH: Was that a "no"?

19 THE WITNESS: No. Right. No.

20 BY MR. IVEY:

21 Q And there was no reason for you to pay
22 attention to what was on the table?

1 A Certainly not. Well, at the time I had no
2 idea I would ever be asked about what was in that
3 room.

4 Q Now you mentioned earlier with respect to
5 the conversation you had with Helen Dickey --

6 A Yes.

7 Q -- that at some point the two of you
8 decided that you better not talk about this anymore.

9 A Well, we just started talking about
10 something else. I think other people walked in the
11 room and I was upset and she -- I confused her, you
12 know, because I think it was just basically we
13 remembered two things the same day differently. And
14 any time someone says something, you start
15 remembering if you've forgotten. So when I say that,
16 I just mean that there was -- we just stopped talking
17 really, the conversation ended.

18 Q The point I want to get at is you decided
19 maybe you shouldn't keep talking about it because it
20 was causing some confusion between the two of you?

21 A Well, there is not much confusion.

22 MR. GORDON: Was it a conscious decision

1 not to talk or did the conversation just end?

2 THE WITNESS: I mean, basically it just
3 kind of ended because I was, I was, honestly I was
4 upset by being called in here and it just after
5 going -- me saying what I had done that first day, it
6 really just ended.

7 BY MR. IVEY:

8 Q Okay. And this just came up accidentally,
9 I guess?

10 A Well, right. I think I said my remarks
11 that arose -- I was just going over out loud what I
12 had done on the one or two times I'd been there in
13 August.

14 Q Let me be clear about what I'm trying to
15 get at. This was not a conscious attempt by you and
16 Ms. Dickey to coordinate your testimony or anything
17 like that?

18 A Oh, no, no, no. And certainly not.

19 Q Okay. And the answers you've given today
20 you've given the answers as you best recall them; is
21 that correct?

22 A Right. I know she did the same.

1 Q You mentioned that you were upset when you
2 got the call from White House counsel's office?

3 A Well, by that I mean, you know, "upset"
4 meaning I'm 21 years old. I have never been to any
5 kind of court and I didn't know what to expect. And
6 I certainly had never considered myself -- I mean,
7 now I see the reasoning, but I just had never even
8 imagined being called into anything like this. So in
9 that sense I kind of ran up to Robyn, who was my
10 surrogate mother, and said, you know, it was a
11 natural kind of reaction, I think.

12 MR. IVEY: Sure. Sure. Now if we could go
13 back to these diagrams. Where is Exhibit 2?

14 MR. DINH: Here it is. Sorry about that.

15 BY MR. IVEY:

16 Q No, it's Exhibit 1, I'm sorry. Now you've
17 testified earlier, you said at one point the tables
18 were -- well, at one point you drew tables onto this
19 diagram.

20 A Exactly.

21 Q I think at one point in your testimony you
22 said that the tables were positioned differently in a

1 different time. And I didn't follow that testimony.

2 A That's probably because I don't -- the
3 memories of how the tables got to this position are
4 just not that clear. All I know is that at some
5 point early on I think the table was moved to form
6 this T is how I remember it.

7 Q Okay. So does Exhibit 1 represent your
8 recollection of the configuration of the tables on
9 August 6th or at a different time?

10 A This represents my recollection of the
11 configuration of the tables dating to the time that I
12 really began working in the book room which is in --

13 Q Mid-September?

14 A Mid-September on.

15 Q And on?

16 A Right.

17 Q Can you recall how the tables were set up
18 in the book room when you first went in on August
19 6th?

20 A I really -- I do not have a clear enough
21 memory of how the tables are set up to make a
22 statement about that. I just know how they are now

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1 and I know how they were when we worked on the book.

2 MR. IVEY: That's all for me.

3 EXAMINATION

4 BY MR. DINH:

5 Q Just a couple quick questions.

6 A Sure.

7 Q You said that after being notified by the
8 White House counsel you ran up to Mrs. Robyn Dickey,
9 who was like your surrogate mother, which is an
10 understandable reaction. Did you know that Helen
11 Dickey was in her mother's office at the time?

12 A No. I knew Helen was there, but I didn't
13 know she was in her mother's office.

14 Q You knew hat Helen was there at the White
15 House visiting?

16 A Yes, sure, she's a friend of mine.

17 Q And then you said that at some point in the
18 conversation -- actually, when you entered the room,
19 was it just Mrs. Dickey and Helen Dickey in the room?

20 A Right.

21 Q And you said at some point other people
22 came in?

1 A Well, at some point a friend of ours who
2 had just had a baby walked in and we were giving
3 gifts so that was kind of, it was a very laid back
4 setting.

5 Q Was your internship at the social office
6 your first job at the White House?

7 A No, I had an internship at the office of
8 public liaison.

9 Q And who was that --

10 A Office of public liaison.

11 Q Who did you work for there?

12 A The intern supervisor was Dana Wyckoff,
13 this was back in 1993.

14 Q And how did you, and I take it that after
15 your -- how did you -- let me scratch that.

16 How did you come to get to apply for and
17 get an internship with the office of public liaison?
18 Did somebody recommend it to you as a viable option
19 other than going to college?

20 A No one recommended to me.

21 Q You just applied out of your own
22 initiative?

1 A I saw Mrs. Clinton testify down here about
2 health care, I was extremely impressed. I wanted to
3 be a part of it. So I went to the White House and I
4 said how can I get involved, period.

5 Q And you were placed as an intern into the
6 office of public liaison?

7 A Right.

8 Q And I take it that's how you were, that's
9 how you got your internship in the social office?

10 A Right. They decided that would be a good
11 place for me to be, after.

12 Q And prior to your working at the White
13 House, had you met Mrs. Clinton or President Clinton
14 before?

15 A Never.

16 Q Did you know anyone who was working at the
17 White House prior to you starting to work there?

18 A Never.

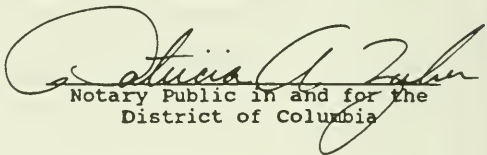
19 MR. DINH: I have nothing further. Thank
20 you very much for your time.

21 THE WITNESS: Really. Thank you very
22 much.

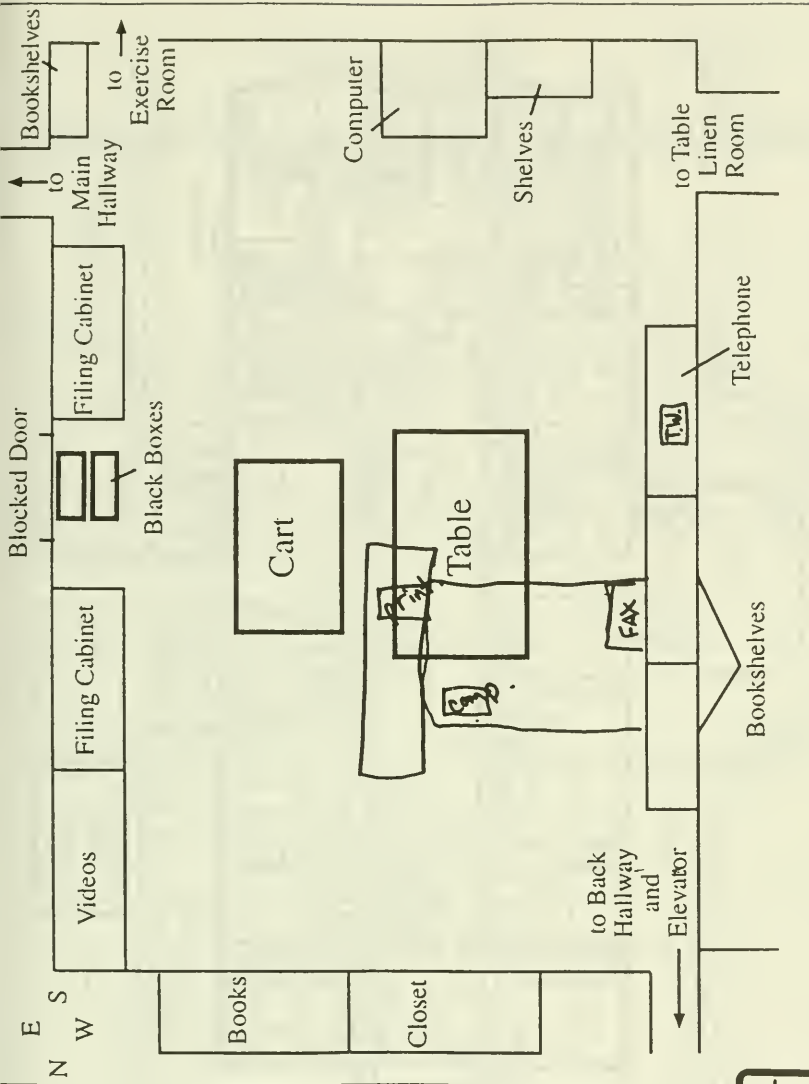
1 (Whereupon, at 3:30 p.m., the deposition
2 was concluded.)
3

4 -----
5 APRILL N. SPRINGFIELD
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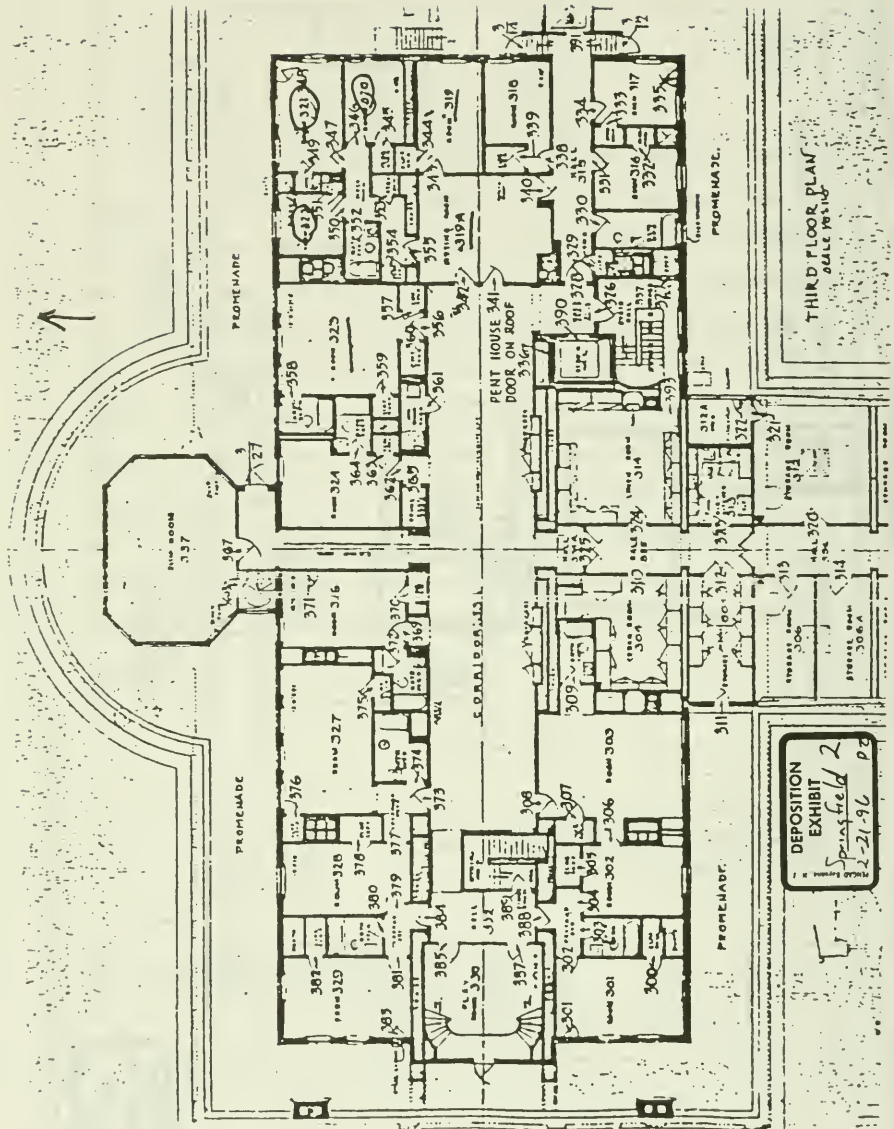
I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action..


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000



DEPOSITION
EXHIBIT 1
Springfield
2-21-96
P2



**DEPOSITION OF MICHAEL ALAN WALDMAN
IN RE: S. RES. 120**

WEDNESDAY, FEBRUARY 21, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of MICHAEL ALAN WALDMAN, called for examination pursuant to notice of deposition, at 5:07 p.m. in Room 534 of the Dirksen Senate Office Building, before JANE W. BEACH, a Notary Public within and for the District of Columbia, when were present:

ALICE S. FISHER, Esq.
Majority Deputy Special Counsel
GLENN F. IVEY, Esq.
Minority Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

LISA B. SCHULTZ, Esq.
K. CHRIS TODD, Esq.
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.
1301 K. Street, NW
Suite 1000 West
Washington, DC 20005
On behalf of the Deponent.

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Michael Alan Waldman DEPOSITION NUMBER	IDENTIFIED
Waldman Exhibit 1	32, 4233

P R O C E E D I N G S

(5:07 p.m.)

COMMITTEE CONFIDENTIAL

MS. FISHER: Good afternoon, Mr. Waldman.

My name is Alice Fisher. I am the Deputy Special Counsel of the Senate Special Committee for the Majority.

To my left is Glenn Ivey who is Deputy Special Counsel for the Minority Staff.

This deposition is being conducted pursuant to Senate Resolution 120, a copy of which has been provided to your counsel.

Are you familiar with the Resolution?

THE WITNESS: Generally.

MS. FISHER: The Resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater, Madison and other related matters.

Section 1(b) of the Resolution authorizes an investigation and public hearings into several issues which will be the focus of today's deposition.

This deposition is in advance of public

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hearings, which are ongoing.

At this point we do not know whether you will be asked to testify at a public hearing. If you are asked to testify at a public hearing, you will be able to get a copy of your deposition four days in advance of your testimony, and you will be able to make any corrections or additions that you want.

I will ask you a series of questions and ask that you testify under oath. If you don't understand a question, just let me know. If you want a break, just let me know.

The stenographer will prepare a record of questions and answers, and the deposition will be treated as Committee Confidential until the commencement of the hearings.

You may be represented by counsel, which I see that you are. If you would like to state an appearance for the record?

MR. TODD: Yes. My name is Chris Todd.

I am with Kellogg, Huber, Hansen, Todd & Evans here in Washington.

To my right is Lisa Schultz who is also

1 with the same firm.

2 MS. FISHER: Counsel may object on the
3 grounds of privilege or relevance, and the Committee
4 Chairman will rule on any objections as to relevance.

5 If you would, swear the witness.

6 Whereupon,

7 MICHAEL ALAN WALDMAN

8 was called for deposition in the above-entitled
9 matter and, having been first duly sworn by the
10 Notary Public, was examined and testified as
11 follows:

12 EXAMINATION

13 BY MS. FISHER:

14 Q Would you state your name for the record?

15 A My name is Michael Alan Waldman.

16

17

18 Q Could you give us a brief description of
19 your employment history since graduating college?

20 A In 1982 I graduated from college.

21 For two years I was the Research Director

22 of a public policy institute called "The Democracy

1 Project" in New York.

2 I attended law school until 1987.

3 From 1987 until 1992 I was employed by
4 Public Citizens, a consumer group. I served as
5 Director of Public Citizens' Congress Watch.

6 Starting in late July 1992 I joined the
7 Clinton-Gore Campaign where I served as Deputy
8 Communications Director.

9 I was Deputy Communications Director on
10 the Presidential Transition starting on January 20th,
11 1993, the beginning of the Administration.

12 I served as Special Assistant to the
13 President, Policy Coordination, in the Office of
14 Communications. I worked in the Office of White
15 House Communications.

16 Beginning in late December of 1995, I
17 became Deputy Assistant to the President and Director
18 of Speech Writing.

19 Q Would you explain just briefly what you
20 did as Director of the Public Citizens -- I didn't
21 catch it all.

22 A Congress Watch.

1 Q -- Congress Watch?

2 A It's a consumer advocacy organization.

3 It dealt with consumer protection and good
4 government issues.

5 We wrote articles, published studies,
6 testified before Congress, did legislative
7 representation on consumer issues.

8 Q Did you publish any articles or materials
9 in that position?

10 A Yes.

11 Yes, I published quite a bit.

12 I wrote articles and op eds.

13 I wrote a book on savings and loans.

14 Q What was that book called?

15 A Who Robbed America?

16 Q What did it -- can you give a brief summary
17 of how it dealt with savings and loans?

18 A It was a citizens' guide through the
19 savings and loan crisis.

20 It dealt with the role of savings and
21 loans and government in what led to the crisis, and
22 dealt at the time with legislative proposals that

1 were before this Committee, and others, for how to
2 set up the RTC and other things.

3 Q When was that published?

4 A 1990.

5 Q And when did you join the Clinton
6 campaign?

7 A After the Democratic Convention in 1992,
8 in late July.

9 Q What were your duties as Deputy
10 Communications Director of the campaign?

11 A Ummmmm --

12 Q Basically?

13 A Policy and communications; writing press
14 releases; debate preparation.

15 Q Did you serve the same function during the
16 transition?

17 A During the transition, I did some speech
18 writing as well, and otherwise it was the same.

19 Q Who did you report to on the campaign?

20 A George Stephanopoulos.

21 Q Anyone else?

22 A No.

1 Q Could you briefly outline your duties when
2 you joined the Administration as Special Assistant to
3 the President in the Office of Communications?

4 A Yes.

5 Working in the Office of Communications, I
6 basically worked on projects as they arose relating
7 to information that would be given to the public or
8 the press, as well as speech writing.

9 In addition, I had some policy issues that
10 I worked on that were not related to the Office of
11 Communications.

12 Q So not related to press?

13 A That's right.

14 Q Who did you report to as Special Assistant
15 to the President in the Office of Communications?

16 A From January until -- to the Communications
17 Director.

18 Q Mr. Stephanopoulos?

19 A Mr. Stephanopoulos, and then Mr. Gearan --
20 he replaced Mr. Stephanopoulos.

21 Q Was there anybody that you supervised that
22 reported to you at that time?

10

1 A I usually had an assistant who was a
2 volunteer in my office.

3 Q Other than Mr. Stephanopoulos and Mr.
4 Gearan, was there anybody else that you reported
5 to?

6 A Not directly.

7 Q Are you aware of the Committee's document
8 request to the White House, and the Committee's
9 subpoena to the White House for documents and records
10 related to records responsive to Senate Resolution
11 120?

12 A Yes.

13 Q Did you or your counsel search for
14 responsive documents, notes, reports, or memoranda?

15 A Yes.

16 Q Back in October?

17 Or could you just tell me when?

18 A When the request from the Committee came,
19 I conducted a search for documents and other material
20 that might be responsive.

21 Q Who asked you to conduct the search?

22 A The White House Counsel's office sent a

1 memorandum to all members of the White House staff.

2 Q Do you recall about when you received the
3 memorandum?

4 A No.

5 Q Was it on or about August, September,
6 October of 1995?

7 A I don't recall.

8 Q Was it in 1995?

9 A Yes.

10 Q Other than receiving the memo, did you
11 speak to anyone else about the search for documents?

12 A I don't understand the question.

13 Q After you received the memo and you were
14 searching through your files for documents, did you
15 speak to anyone about it -- about the request?

16 A When I -- Yes, I did.

17 Q Other than your counsel?

18 A Yes.

19 I spoke to the White House Counsel's
20 Office.

21 Q That would be Ms. Sherburne, or --

22 A To the best of my recollection it was Mr.

1 Feine.

2 MR. TODD: Could I just ask that we go off
3 the record for a moment so I can clarify something?

4 MS. FISHER: Sure.

5 (Discussion off the record.)

6 THE WITNESS: Could you restate the
7 question?

8 MS. FISHER: Would you read back the
9 question?

10 THE REPORTER: "Q After you received
1 the memo and you were searching through your files
2 for documents, did you speak to anyone about it --
3 about the request?

4 "A When I -- Yes, I did.

5 "Q Other than your counsel?

6 "A Yes.

7 I spoke to the White House Counsel's
8 Office.

9 "Q That would be Ms. Sherburne, or --

10 "A To the best of my recollection it was

11 Mr. Feine."

12 BY MS. FISHER: (Resuming)

1 Q Do you recall approximately when you spoke
2 to Mr. Feine?

3 A It was as I was giving him, or immediately
4 after I was giving him the documents that I had found
5 in my search for documents in response to the request
6 from the Committee.

7 Q Do you have any recollection whatsoever of
8 when that might have occurred?

9 A In 1995.

10 Q Was it shortly after you received the memo
11 from the White House Counsel's Office?

12 A Yes.

13 Q Do you recall the substance of that
14 conversation?

15 A As best I can remember, I gave him the
16 documents and he said that they would go through them
17 and tell me whether they needed to be produced --
18 whether they would be going to the Committee.

19 Q Do you recall approximately how many
20 documents you gave them?

21 A (Pause.)

22 This is an -- I don't recall exactly.

1 Q Your best estimation.

2 A My best estimation would have been 15 --
3 well, my best estimation would have been
4 approximately 25.

5 Q Were you ever notified whether any of
6 those 25 documents were produced to the Committee?

7 A No.

8 Q Not one way or the other?

9 A Correct.

10 Q Did he tell you that he was going to
11 notify you that they were going to produce any of
12 them to the Committee?

13 A Not that I recall.

14 Q So there's no particular reason why he
15 would have notified you?

16 A Not that I recall.

17 Q And how did you go about searching for the
18 documents at that time?

19 A I searched my files.

20 I searched my bookshelves.

21 And I searched my computer hard drive,
22 using a document finder program in Word Perfect.

- 1 Q Do you have a secretary?
2 A No.
3 Q Did you have any assistants that would
4 have possibly had documents of yours?
5 A At that time, I did not.
6 Q So recently you found some more documents,
7 is that correct, that were responsive?
8 A Yes; that's correct.
9 Q Could you just explain how that came
10 about?
11 A In conjunction with my new job, I moved
12 offices.
13 Q That would be in December 1995?
14 A The new job began in December, but the
15 office move was not until last week.
16 As part of the move, interns in my office
17 packed up my belongings -- what was in my office, and
18 put them in boxes.
19 Last Monday, February 12th, I came in and
20 saw that there were boxes, in looking at the boxes, I
21 saw that one of them had, potentially, documents in
22 it that were potentially responsive that I had never

16

- 1 seen before, or that I had not seen during the
2 search.
3 Q Do you know how the file got into the box?
4 A No.
5 Q Did it come from your files?
6 A I don't know for sure, but I believe so.
7 Q Because they were packing up your office?
8 A Yes.
9 Q Now you went in on February 12th and you
10 saw that they had packed up the boxes. Did you make
11 a conscious effort to look at what was in every box?
12 Or how did that occur?
13 A I glanced at the boxes and saw that they
14 had put paper on each with a manifest of what was in
15 the box. And this box had as one of the items,
16 "WWDC".
17 So I felt I should look in the box.
18 Q Did you recognize that as a file that you
19 had?
20 A I did not recognize the file, or remember
21 its existence.
22 I had not remembered its existence at the

1 time I was conducting my search.

2 There were some documents -- well, when I
3 saw that the box had this topic, I looked at it
4 quickly and saw very quickly that it may be
5 responsive.

6 Rather than going through it in detail, I
7 called the White House Counsel's Office and brought
8 the box immediately to counsel's office.

9 Q Did you or the counsel's office to your
10 knowledge ever attempt to talk to the interns who
11 packed up the boxes as to where they found that file?

12 A At the time, I asked the intern where it
13 was and I don't remember exactly what the intern
14 said, but I believe the intern said that it was in a
15 corner of the long sort of closet where he had found
16 it, or where the box had been found.

17 Q A box that contained files?

18 A Yes.

19 Q So there is a closet in your office?

20 A There was a long cabinet that extended the
21 length of the office.

22 Q Did the cabinet have file drawers?

1 A No.

2 Q What did the cabinet look like?

3 A It had a shelf.

4 Q Just one shelf?

5 A That extended.

6 Q So there was nothing under it?

7 Was there anything?

8 A It had I guess -- I don't know what the
9 lingo is.

10 There were two surfaces to put things on.

11 Q Did the cabinet have doors, or drawers,
12 that opened it?

13 A Doors.

14 Q Doors.

15 And what was in the cabinet? What's
16 normally kept stored in the cabinet?

17 A I don't understand.

18 Q Is it like a chest?

19 I don't understand. Could you describe it
20 for me?

21 A It's built into the wall, and it has a
22 shelf in it.

1 Q A shelf inside?
2 A Yes.
3 Q Once you open the doors --
4 A Yes.
5 Q -- there's a shelf.
6 The files were in the cabinet, according
7 to the intern?
8 A To the best of my recollection, that was
9 what the intern said, but I don't know for sure.
10 Q To the best of your recollection, the
11 files were in the cabinet in your office.
12 Were there other files generally stored
13 there?
14 MR. TODD: Objection.
15 MS. FISHER: I'm sorry. I misspoke. I
16 mischaracterized it.
17 BY MS. FISHER: (Resuming)
18 Q To the best of your recollection, the
19 intern said the files had been in the cabinet?
20 A Yes.
21 Q Are there files generally stored in that
22 cabinet?

1 A Yes.
2 Q How many files, approximately, are
3 generally stored in the cabinet?
4 A I guess I don't understand how you'd
5 quantify it.
6 Q Is it full of files?
7 A No.
8 Q Half full of files?
9 A Various -- there was a part of the cabinet
10 where files, where I kept files, which contained, I
11 would say, a number of accordion files.
12 Q And do these files relate to your job at
13 the White House?
14 A Yes.
15 Q Did you search these files when you were
16 searching for documents initially?
17 A Yes.
18 Q So this particular file was not found when
19 you did that search?
20 A That's correct.
21 Q Do you recall the name of the intern that
22 packed up the boxes in your office?

1 A Jonathan Gardner.

2 Q Did you have any further conversations
3 with him?

4 A No.

5 Q And you took the documents immediately to
6 the White House Counsel's Office?

7 A Yes.

8 Q And what happened after that, to your
9 knowledge?

10 A They told me that they would go through
11 them and determine what was responsive.

12 Q Other than the search that you did after
13 receiving the initial memo from the White House
14 Counsel's Office regarding the Senate subpoena, did
15 you conduct any other searches in the intervening
16 time period between that time and February 12th?

17 A No.

18 Q Did you receive any further requests from
19 the White House Counsel's Office to search for
20 documents?

21 A No.

22 Q All the documents that were produced to

22

1 the Committee on February 13th --

2 THE WITNESS: May I go back to a question
3 you asked?

4 MS. FISHER: Absolutely. Oh, please.

5 THE WITNESS: Could you repeat the last
6 question you just asked?

7 THE REPORTER: "Q Did you receive any
8 further requests from the White House Counsel's
9 Office to search for documents?"

10 THE WITNESS: I don't remember exactly,
11 but the entire White House staff has been told on a
12 number of occasions that they have to take the
13 requests and subpoenas very seriously. But I did not
14 personally receive any further information.

15 BY MS. FISHER: (Resuming)

16 Q Were you personally or in a group of
17 people that were told to take the subpoena seriously?

18 A No.

19 Q How did you -- did you receive a memo that
20 said that?

21 A I don't remember.

22 Q How do you recall that happened?

1 A The senior staff meeting at the White
2 House.

3 Q Discussed it?

4 A Yes.

5 Q At the senior staff meeting.

6 At any time did that prompt you to go back
7 to your files and to conduct another search to make
8 sure that you had produced all the documents that
9 were responsive to the Senate subpoena?

10 A No.

11 Q Were you ever asked to go back and check
12 to make sure that you had produced all the documents
13 that were responsive to the Senate subpoena after the
14 initial memo that you received?

15 A Again I guess I don't understand the
16 question.

17 Q Well if I understand it correctly, you
18 received a memo sometime in 1995 asking you to search
19 for documents.

20 You searched for those documents and you
21 produced them to David Feine.

22 Then a period of time passes before this

1 February 13th production.

2 During that period of time, you attended
3 senior staff meetings where it was discussed that
4 White House staff should take the subpoenas very
5 seriously.

6 What I am asking is if, at any of those
7 meetings, after hearing this discussed, it prompted
8 you to go back and search your files for responsive
9 documents?

10 A No.

11 Q Did anyone ask you, or did anyone tell you
12 at a senior staff meeting or at any other time, that
13 you should make sure that all responsive documents
14 were produced?

15 A No.

16 THE WITNESS: Could we take a break for a
17 minute?

18 MS. FISHER: Absolutely.

19 (Discussion off the record.)

20 BY MS. FISHER: (Resuming)

21 Q Do you want to add anything to what you've
22 said?

1 A No.
2 Q Did any of the documents that you found in
3 this "WWDC" -- I assume that stands for Whitewater
4 Development Corporation?
5 Is that correct?
6 A I believe so.
7 Q Well, it's your file.
8 A Yes.
9 Q So you would be the best --
10 A I don't know what else it would stand for.
11 Q In the documents that you found in the
12 Whitewater Development Corporation file, were any of
13 those documents identical to documents that you had
14 given to the White House Counsel's Office back in
15 1995?
16 A Yes.
17 Q Can you describe which ones they were?
18 A (Pause.)
19 Q To the best of your knowledge.
20 A To the best of my knowledge --
21 Q I understand it's difficult.
22 Q -- I don't recall exactly, but they were

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1 the ones that were produced -- in general they were the
2 ones that were produced by me; but I don't recall
3 specifically.
4 MS. FISHER: You have the complete
5 production here, don't you?
6 (Mr. Ivey hands documents to the witness.)
7 BY MS. FISHER: (Resuming)
8 Q Maybe you could just point out the Bates
9 numbers of the documents you believe are identical to
10 the ones that were produced in 1995.
11 MR. IVEY: Do you want to deal with this
12 one (indicating a separate document) now?
13 MS. FISHER: Yes. Let's deal with that in
14 a minute.
15 We'll go to that next.
16 (The witness examines documents.)
17 MR. IVEY: This document goes at the end
18 of the ones I just gave you.
19 MR. TODD: Except that --
20 MS. FISHER: The Bates numbers don't go
21 consecutively.
22 BY MS. FISHER: (Resuming)

1 Q Your notes, I take it, were not produced
2 back in 1995?

3 Is that correct?

4 A This page (indicating) was not produced in
5 1995.

6 MR. IVEY: "That page" being?

7 MS. FISHER: That page is 20586.

8 THE WITNESS: I guess this page, to the
9 best of my recollection -- this was also not produced
10 in 1995.

11 MS. FISHER: 20857.

12 THE WITNESS: 20587.

13 MS. FISHER: I'm sorry. 20587.

14 MR. IVEY: Could we go off the record for
15 a second?

16 (Discussion off the record.)

17 BY MS. FISHER: (Resuming)

18 Q What I would like to know, Mr. Waldman, is
19 what you gave to the White House Counsel's Office in
20 1995, because I understand that you do not know what
21 the White House Counsel then produced to this
22 Committee.

1 A I believe that this document, 02616, or at
2 least something that looks very much like it, was
3 given to the White House Counsel's Office by me in
4 1995.

5 MR. IVEY: Just that page?

6 THE WITNESS: No. The document from
7 020616 to 020619.

8 (Witness peruses documents.)

9 I believe that this document 02616, or at
10 least something that looks very much like it, was
11 given to the White House Counsel's Office by me in
12 1995.

13 MR. IVEY: Just that page?

14 THE WITNESS: No, the document from 020616
15 to 020619.

16 (Witness peruses documents.)

17 I believe, to the best of my recollection,
18 that the document beginning 020701, running to page
19 020704, was given by me to the White House Counsel's
20 Office.

21 (Witness peruses documents.)

22 Can I speak to counsel?

1 MS. FISHER: Absolutely. Off the record.

2 (Discussion off the record.)

3 MS. FISHER: Back on the record.

4 BY MS. FISHER: (Resuming)

5 Q S20709 you're not sure about?

6 A I'm not sure it was in what I turned over
7 to the counsel's office, which was then subsequently
8 turned over to the Committee.

9 Q Okay.

10 (Witness peruses documents.)

11 MR. TODD: Can we go off the record a
12 second?

13 MS. FISHER: Sure.

14 (Discussion off the record.)

15 BY MS. FISHER: (Resuming)

16 Q Did you want to identify that other
17 document as something that was produced to the White
18 House Counsel's Office in 1995?

19 A Yes.

20 Q And that Bates Number is what?

21 A S020740.

22 Q And that is "Draft Op Ed Piece by Bruce

1 Lindsey?

2 A Yes; S020740.

3 Q Is there anything else in that February
4 13th production --

5 MR. IVEY: I'm sorry? That goes for four
6 pages? That's a four-page document? Does that go
7 through 0744? Or a five-page document?

8 THE WITNESS: Yes; 0744.

9 BY MS. FISHER: (Resuming)

10 Q Okay. So we have just identified some
11 documents that you believe you had produced
12 previously to the White House Counsel's Office in
13 1995 --

14 A Yes.

15 Q -- that were also in this file called
16 "Whitewater Development Corporation"?

17 A Yes.

18 Q Were there any documents that you
19 discovered in February of 1996 that weren't in this
20 Whitewater Development Corporation file?

21 A I don't understand the question.

22 Q We've discussed how you came across these

1 documents -- and that is, that they were in a box in a
2 file called Whitewater Development.

3 Other than that file, were any of these
4 documents located elsewhere?

5 A None of these documents were located
6 elsewhere.

7 MR. TODD: For the record, can we just
8 identify what we are referring to as "these
9 documents"?

10 MS. FISHER: Bates Nos. 20586 to 20761
11 produced by the White House to the Special Committee
12 on February 13th, 1996.

13 BY MS. FISHER: (Resuming)

14 Q Did your discovery of this file on
15 February 12th, 1996, lead you to go back and search
16 your office or the boxes for other responsive
17 documents?

18 A Yes.

19 Q So you conducted a further search?

20 A Yes.

21 Q Did you come across any more responsive
22 documents?

1 A That -- I came across, working with counsel,
2 I came across one further responsive document.

3 Q And since it doesn't have a Bates number,
4 we could mark this -- do you mind if we mark it as an
5 exhibit, Waldman Exhibit No. 1.

6 (The document referred to
7 was marked Waldman
8 Deposition Exhibit No. 1
9 for identification.)

10 BY MS. FISHER: (Resuming)

11 Q This document appears to be a draft "Op Ed
12 by Bruce Lindsey" that's dated Sunday AM Draft, or
13 that states on there "Sunday AM Draft"?

14 A Yes.

15 Q How did you come across this document?

16 A As part of -- I had a three-ring binder
17 notebook of newspaper clippings on this subject --

18 Q "This subject" being?

19 A Whitewater.

20 Q Okay.

21 A -- that I was looking at in preparation for
22 this deposition, and within the newspaper clippings

1 in the binder was this document.

2 Q The documents that you had turned over to
3 White House Counsel's Office in 1995, where were they
4 located? In a particular file, or in random files?

5 A The documents were located in different
6 places.

7 Some were located in -- well, first, the
8 bulk of them were located on my computer.

9 Some were located in my desk.

10 I don't recall, beyond that, whether they
11 were in files or not.

12 Q So you don't recall whether you found any
13 documents in your files?

14 A I recall finding documents, but I did not
15 recall finding documents that were responsive.

16 Q In your files?

17 A Yes.

18 Q Did that surprise you at the time?

19 A No.

20 I didn't -- I didn't have an expectation one
21 way or the other.

22 Q Did you recall at that time that you had

1 attended meetings in early January 1994 relating to
2 Whitewater?

3 A Yes.

4 Q So it didn't surprise you that you did not
5 locate your notes from those meetings when you were
6 searching in 1995?

7 A As I said, I did find some materials from
8 that period which was given to the White House
9 Counsel's Office.

10 Q But you did not find your notes that were
11 produced to the Committee on February 13th?

12 A That's correct.

13 Q Did it surprise you at that time that you
14 couldn't find your notes?

15 A I don't recall what my reaction was.

16 Q Did you recall that you had taken notes at
17 the meetings?

18 A I don't -- I don't understand the --

19 Q In the fall or winter of 1995 when you
20 were searching for documents responsive to the White
21 House Counsel's Office's memo that you received, did
22 you recall at that time -- I believe you just testified

1 that you recalled that you attended the early 1994
2 meetings relating to Whitewater -- did you recall at
3 that time that you had taken notes at those meetings?

4 A I didn't remember whether I had taken
5 notes.

6 Q But you didn't find any of your notes at
7 the time?

8 A Correct.

9 I didn't any of those -- I didn't find the
10 material that was turned over until February 12th. I
11 did not find the material that was turned over to the
12 Committee on February 13th until February 12th.

13 Q When you searched your office in the fall
14 or winter of 1995, were you surprised at the amount
15 of documents that you found that were responsive?

16 Q (Nods in the negative.)

17 Q Did you think, gee, you know, I should
18 have found more documents than this in my files
19 because I attended these meetings and I was involved
20 in this in early 1994?

21 A No.

22 Q One question about the three-ring binder

1 of newspaper clippings.

2 That was related to Whitewater? Is that
3 correct?

4 A Yes.

5 Q Did any of those clippings have
6 handwritten notes on them anywhere?

7 A (Nods in the negative.)

8 MR. IVEY: Could we have a verbal
9 response?

0 THE WITNESS: "No." Those binders were
1 shown to the White House Counsel's Office in 1995.

2 BY MS. FISHER: (Resuming)

3 Q And you know of no other responsive
4 documents that have not been produced to the
5 Committee? Correct?

6 A Correct.

7 Q Did you speak to anyone other than your
8 counsel prior to this deposition about the substance
9 of the deposition?

0 A No -- well, the -- during the course of
1 retaining counsel, I spoke to other counsel in
2 privileged conversations, but other than that, no --

1 and my spouse, my wife, to be specific.

2 Q When do you recall you first learned -- well
3 strike that. I should ask you:

4 During the 1992 Clinton for President
5 Campaign, did you have any responsibilities, or did
6 you partake in any activities related to Whitewater
7 or Madison Guaranty?

8 A No, I did not.

9 Q You were aware that it was an issue during
10 the campaign?

11 A I was aware from reading newspaper
12 accounts that it was an issue. I was not on the
13 campaign during the primaries, which was when the
14 accounts were first published.

15 Q After you joined the Whitewater in 1993,
16 what were your first activities with regard to
17 Whitewater, or Madison, or any of the other matters
18 related to or specified in Senate Resolution 120? I
19 can show you list, if you want to refresh your
20 recollection.

21 THE WITNESS: Why not.

22 MR. IVEY: Could you repeat the question,

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1 or read back the question?

2 THE REPORTER: "Q After you joined the
3 Whitewater in 1993, what were your first activities
4 with regard to Whitewater, or Madison, or any of the
5 other matters related to or specified in Senate
6 Resolution 120? I can show you list, if you want to
7 refresh your recollection."

8 MS. FISHER: Let's take a brief break
9 here.

10 (Recess.)

11 MS. FISHER: Back on the record.

12 Why don't you put on the record what you
13 want to put on the record.

14 MR. TODD: With regard to Deposition
15 Exhibit Waldman No. 1, it is agreed that it is a one,
16 two, three, four, five-page document, and that it is
17 virtually identical to Deposition Exhibit S020740
18 through S020744, previously produced.

19 MS. FISHER: Except one is Tuesday, and
20 one is Sunday; correct?

21 MR. TODD: Waldman No. 1 has a heading
22 entitled "Draft Op-Ed by Bruce Lindsey (?) Sun. AM

1 Draft", and S020740's caption is "Draft Op-Ed by
2 Bruce Lindsey (?) Tues. AM Draft".

3 And on page 3 of -- and also marked as
4 S020742, in the middle of the page is a sentence:
5 "Because of the operations of the tax laws, the tax
6 benefit would be only [\$5100]"; and on page 3 of -- and
7 the same page, or virtually identical page of Waldman
8 No. 1, the sentence reads: "Because of the operation
9 of the tax laws, taking the loss would permit a
10 deduction of only about \$1200."

11 MS. FISHER: Thanks.

12 We will make copies of this so we can
13 return it to you before we leave.

14 BY MS. FISHER: (Resuming)

15 Q After joining the White House in 1993,
16 could you tell me when your first involvement
17 occurred relating to issues on either Whitewater
18 Development Corporation, Madison Guaranty Savings &
19 Loan, or the Rose Law Firm?

20 A To the best of my recollection, I had no
21 involvement prior to the end of December 1993.

22 Q What was the nature of that involvement?

1 A I was asked to attend a meeting by Mark
2 Gearan.

3 Q Who was present at the meeting?

4 A I don't remember exactly, but it was held
5 in the counsel's office.

6 Q And you reported to Mark Gearan at that
7 time; correct?

8 A Yes.

9 Q Do you recall if Mr. Gearan was there?

10 A I don't recall who was there.

11 Q Do you recall Mr. Mr. Nussbaum being
12 there?

13 A I don't remember exactly who was there.

14 Q Do you recall in whose office it was?

15 A It was in Mr. Nussbaum's office.

16 Q But you don't recall if Mr. Nussbaum was
17 there?

18 A That's right.

19 Q Do you recall whether Mr. Eggleston was
20 there?

21 A I don't remember.

22 Q Mr. Sloan?

1 A No --

2 Q I'm just trying to refresh your
3 recollection.

4 A I don't remember who was there at that
5 meeting.

6 Q And to the best of your recollection it
7 was in December 1993?

8 A Yes.

9 Q What was the subject matter of the
10 meeting?

11 MR. TODD: May I just inquire whether we
12 are collectively treading on an area where I need to
13 make an inquiry before you proceed regarding a
14 possible privilege assertion by the White House?
15 Because now apparently we are inside the White House
16 Counsel's Office.

17 I don't know what the conversation is, but
18 it potentially could impact on a privilege and I
19 would like to get it clarified before we get into who
20 said what.

21 MS. FISHER: Has the White House given you
22 any instructions on what to claim privilege for?

1 (Pause.)

2 MR. TODD: Could we just go off the
3 record, because I --

4 MS. FISHER: Sure.

5 (Discussion off the record.)

6 MR. TODD: You can just go ahead. It is
7 my understanding that there is no objection to
8 conversations prior to March 4, 1994.

9 BY MS. FISHER: (Resuming)

10 Q Okay. So getting back to the meeting, do
11 you recall approximately when in December the meeting
12 occurred?

13 A I think it was in late December.

14 Q Was it before Christmas or after
15 Christmas?

16 A I don't recall.

17 It was either before Christmas or between
18 Christmas and New Years.

19 Q Do you recall what the substance of the
20 meeting was?

21 A I have a -- I don't recall exactly.

22 I vaguely recall that it was about the

1 press inquiries that were going on at the time about
2 Whitewater.

3 Q What was said at the meeting?

4 A I don't remember.

5 Q Do you remember anything more about that
6 meeting at all, other than it was generally to
7 discuss press inquiries on Whitewater?

8 A No.

9 Not that meeting, no.

10 Q Do you recall whether it was discussed
11 that the President was about to produce documents to
12 the Department of Justice relating to Whitewater?

13 A I don't remember if that was discussed.

14 Q Do you recall whether Madison Guaranty was
15 discussed?

16 A I don't recall specifically Madison
17 Guaranty being discussed, but if the topic was the
18 general topic it would have been, but I don't
19 remember.

20 Q And to the best of your recollection, it
21 is your testimony that this was the first involvement
22 that you had in any of these matters?

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1 A To the best of my recollection, yes.

2 Q What is the next involvement that you had?

3 A After the New Year's holiday, I was asked
4 to work on helping to respond to press inquiries on
5 Whitewater and the Whitewater matter.

6 Q Who asked you to do that?

7 A I don't remember exactly who.

8 At the time I worked for Mr. Gearan, so I
9 have a general memory that either -- that he was a part
10 of asking me, but I don't remember being asked.

11 Q And what do you recall about your first
12 work on helping to respond to press inquiries
13 relating to Whitewater?

14 A I don't -- Could you rephrase the question?

15 Q Sure. Absolutely.

16 I just want to know what your best
17 recollection is of your first activities in early
18 January relating to this task.

19 A I don't really have a distinct
20 recollection of what were my first activities.

21 Q Tell me generally what you recall from
22 this time period, then.

1 A Could you rephrase that question?

2 Q Sure.

3 What do you recall generally about your
4 involvement in anything related to Whitewater the
5 first and second week of January 1994?

6 A Well, as a member of the communications
7 staff I was asked to work on -- as a general matter, I
8 was asked to work on drafting documents such as
9 talking points, op eds, and thing of that nature to
10 respond to the allegations that were then being made
11 in the press about this matter.

12 Q How were you to go about obtaining the
13 facts to draft talking points and op eds?

14 A As a general matter, I recall the way -- the
15 way this information -- the way the information for
16 these documents would be gathered by me would be from
17 the White House Counsel's Office, and also from Bruce
18 Lindsey and from David Kendall, the personal attorney
19 for the President and First Lady.

20 That is as a general -- that is my general
21 recollection -- that's what I generally remember as a
22 general matter, but things may have varied from

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1 document to document.

2 Q Okay. So generally either the White House
3 Counsel's Office, Bruce Lindsey, or David Kendall
4 would provide you with documents that would contain
5 facts that you could then relate into talking points?

6 A The information would be conveyed orally
7 or in documents.

8 Or I would work off of a draft provided
9 by -- someone.

10 Q What documents do you recall seeing during
11 this time period, or receiving? Was it a great
12 amount of documents during this time period?

13 A No.

14 Q Was it a few documents?

15 MR. TODD: Are you talking with respect to
16 Whitewater documents?

17 MS. FISHER: With respect to what he was
18 doing, yes.

19 THE WITNESS: Well, let me just, if I
20 could add to my earlier answer --

21 BY MS. FISHER: (Resuming)

22 Q Sure.

1 A -- press clippings.

2 Q Okay.

3 A A very significant source of information.

4 Q Sure.

5 A What documents?

6 (Pause.)

7 Q I could be more specific.

8 A If you don't mind.

9 Q Do you recall any particular documents you

10 received from the White House Counsel's Office to

11 assist you in working on this task?

12 A I recall receiving from the White House

13 Counsel's Office drafts of documents that I then

14 worked with them on -- that I worked with them to write

15 in the presentation.

16 Q Generally, if you could give me an idea,

17 and this might help us move this along a little bit

18 quicker --

19 A Yes.

20 I'm sorry.

21 Q How did it generally work?

22 Was it that White House Counsel's Office

1 would call you and say 'we need talking points on

2 such-and-such an issue; we're going to send you a

3 draft'? Or, was it Mr. Gearan coming to you to say,

4 'We have a press inquiry related to this.

5 You go out and find the facts about this?'

6 Or was it a mixture of both.

7 A It was a mixture of -- it was a mixture of --

8 I was made aware through Mr. Gearan or through others

9 in the White House, or through attending meetings of

10 the documents that needed to be drafted, and I would

11 then go work with the Counsel's office, or whoever

12 was appropriate, on gathering the facts.

13 Q Can we look at some of your notes,

14 Document S02586, are these your notes?

15 A That is my handwriting.

16 Q Do you recall when you took these notes?

17 A No.

18 Q Do you recall that it is in early January

19 1994?

20 A I don't recall taking these notes. But as

21 I say, it is my handwriting.

22 Q Do these -- there are three documents,

1 20586, 20587, and 20588, and I don't know -- they were
2 produced in sequential order.

3 I don't know if they go together, and I
4 don't know if you can shed any light on that.

5 A I'm not sure I know.

6 Again, I don't recall.

7 This is my handwriting on these documents.

8 I don't recall taking these notes.

9 MR. TODD: Can you clarify, when you say
10 "this is my handwriting," which document you are
11 referring to?

12 THE WITNESS: Yes.

13 Absolutely.

14 The handwriting on 020587, 020588, and
15 020586, I recognize as my own handwriting. I don't
16 recall taking these notes, but --

17 BY MS. FISHER: (Resuming)

18 Q Do you recall that you may have -- does it
19 refresh your recollection that you may have taken
20 these notes in early January 1994?

21 A That is very possible.

22 Q And --

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1 A The --

2 Q Please finish.

3 A It is very possible.

4 I don't remember taking them, but --

5 Q Did you attend a series of meetings in
6 early January 1994 relating to Whitewater
7 issues?

8 A Yes.

9 Q What do you recall about those
10 meetings?

11 A Those meetings took place from the
12 beginning of January until approximately January
13 12th.

14 They were daily meetings that were
15 generally held in the ward room of the White
16 House.

17 MR. TODD: In the what room?

18 THE WITNESS: W-a-r-d room.

19 And they brought together people from the
20 press and communications office, the counsel's
21 office, and other relevant offices to deal with the
22 issues at the time.

EVENING SESSION

(6:00 p.m.)

BY MS. FISHER: (Resuming)

Q Who do you recall being there?

A I generally -- the people -- who was there was not entirely consistent from meeting to meeting.

Q Did it start out with a large number of people and kind of winnow down? Or did it just vary from day to day?

A It varied from day to day.

Q Generally who do you recall being at the meetings?

A Generally I recall being at the meetings, in addition to myself, a Mr. Ickes, Mr. Nussbaum, Joel Klein, the Deputy White House Counsel; Mr. Gearan; Mr. Eggleston; and then I recall sometimes being at the meetings, but I don't remember whether they were at all the meetings, the people including Mr. Stephanopoulos, Ms. Caputo, Ms. Williams, Mr. Gergen.

Q Was Mr. McLarty at any of the meetings?

A I don't remember.

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Q Was the President at any of the meetings?

A Not at any meeting I attended.

Q Was the First Lady at any of the meetings?

A I never attended a meeting -- I was never in a meeting where the First Lady was.

Q Do you recall the First Lady entering at any time in any of the meetings?

A I was never in attendance at a meeting where the First Lady entered or attended.

Q Do you recall how many meetings were attended by Maggie Williams -- Margaret Williams?

A No.

Q More than one, two, three? Was she a general attendee?

A I don't remember whether she was a general attendee.

She was there more than once, but I don't remember with as much clarity that she was there every time.

Q Can you tell me what you recall about what was discussed at those meetings?

A In general the meetings were focusing on

1 the press stories and allegations that were being
2 raised at the time about Whitewater.

3 In addition, there were general
4 discussions of other matters relating to the
5 issue.

6 Q What kind of other discussions?

7 A There were some discussions of whether it
8 was wise for the President to ask the Attorney
9 General to appoint a Special Counsel.

10 Q What do you recall about those
11 discussions?

12 A I recall different viewpoints being
13 expressed, and very little resolution.

14 Q Whose viewpoints do you recall, and what
15 viewpoints do you recall?

16 A I recall Mr. Nussbaum expressing the
17 viewpoint that the President should not ask the
18 Attorney General for a Special Counsel.

19 And I recall others -- particularly I recall
20 Mr. Stephanopoulos arguing that the President should.

21 Q Do you recall anything specific about what
22 Mr. Nussbaum said about any of the meetings on the

1 issue of whether or not it was wise for the President
2 to appoint a Special Counsel?

3 A I recall Mr. Nussbaum arguing that the
4 appropriate standard had not been met for a Special
5 Counsel.

6 And I recall him arguing that, given that
7 there was no wrongdoing, that the outcome of such an
8 investigation could move beyond the subject at hand
9 and go off in strange directions.

10 Q Do you recall that Mr. Nussbaum was
11 concerned about the scope of the investigation if the
12 President appointed a Special Counsel?

13 A I recall -- I recall him making a general
14 point about Special Counsels or independent counsels
15 that they could take a long time, or they could go
16 off into different directions other than what is
17 originally anticipated.

18 Q So --

19 A But I don't know that that --

20 Q So generally you recall that Mr. Nussbaum
21 expressed some concern about the scope of the
22 investigation if a special counsel was appointed?

1 MR. TODD: Objection.

2 THE WITNESS: I don't recall him ever
3 discussing "scope."

4 BY MS. FISHER: (Resuming)

5 Q Going off in different directions is what
6 you recall, then?

7 A I recall him describing his view that such
8 an investigation could be very destructive even if
9 people are innocent.

10 Q Okay. What else specifically do you
11 recall him saying?

12 A That's my strongest recollection of what
13 he said.

14 I recall him saying -- I general recall -- I
15 don't have a very clear recollection of what he said,
16 but I generally recall him saying that, in the best
17 outcome it could take a long time; in the worst
18 outcome, it could go off basically on a wild goose
19 chase that could not be anticipated -- the outcome of
20 which could not be anticipated.

21 (Pause.)

22 THE WITNESS: May I chat with counsel?

1 MS. FISHER: Certainly.

2 (Discussion off the record.)

3 THE WITNESS: May I add something to my
4 answer?

5 BY MS. FISHER: (Resuming)

6 Q Yes.

7 That would be great.

8 A My recollection is that your question was
9 about whether Mr. Nussbaum was discussing whether the
10 President should ask for a special counsel. And my
11 recollection was that his discussion was a general
12 one of special counsels and independent counsels
13 generally; but I don't recall him making a
14 distinction, but that's my recollection.

15 Q You recall that there was discussion about
16 whether it was wise for the President to appoint a
17 Special Counsel?

18 A Yes.

19 Q I believe that's your testimony.

20 Okay. So what do you recall Mr. Nussbaum
21 saying about whether it was wise for the President to
22 appoint a special counsel?

1 A Mr. Nussbaum argued that it was not wise
2 for the President to appoint a special counsel.

3 Q And what reasons did he provide?

4 A First, that the appropriate standard had
5 not been met; and that that should be the governing
6 standard.

7 And second, that even if nobody did
8 anything wrong, the outcome could not be predicted of
9 a special counsel investigation.

10 Q Why is it that he, Mr. Nussbaum, stated --
11 what was your understanding --

12 A Or an independent counsel investigation.

13 Q What was your understanding of what
14 Mr. Nussbaum meant by that?

15 MR. TODD: Objection.

16 THE WITNESS: I don't --

17 BY MS. FISHER: (Resuming)

18 Q I just want to know what he understood
19 that to mean.

20 A I don't have any way of knowing what he
21 meant, other than what he said.

22 Q Well, Mr. Nussbaum stated that his view

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1 was that it could be destructive because it could go
2 after wrongdoing even if people were innocent? Is
3 that basically what you just testified to? I don't
4 want to misstate your testimony.

5 A My recollection is general -- I have a
6 general recollection of what he said.

7 My general recollection is that he said
8 that even if people were innocent, a special counsel
9 could use it as an opportunity to go after all sorts
10 of things that could not be anticipated by us at that
11 time.

12 Q Did he provide any examples of that?

13 A Could you restate the question?

14 Q Did he provide any examples of what a
15 special counsel or an independent counsel could go
16 after that was not anticipated?

17 A He did not provide examples of what a
18 special counsel or an independent counsel could go
19 after, to the best of my recollection.

20 Q And is it your testimony that this
21 statement, or this recollection that you have about
22 what Mr. Nussbaum said was a statement generally

1 about independent counsels? Or was it a statement
2 focused on a discussion about whether it was wise for
3 the President to appoint an independent counsel?

4 A Well, it was a statement generally about
5 independent and special counsels, and I use the term
6 interchangeably --

7 Q Yes. That's fine.

8 A -- if I don't make that point at some
9 point.

10 It was a general discussion of their
11 history and their proclivity in the context of
12 whether the President in this case should ask for
13 one.

14 Q Do you recall anything else that
15 Mr. Nussbaum said with regard to this issue?

16 A I recall that he said that such an
17 investigation could be hurtful to associates of the
18 President.

19 MR. IVEY: Could be? I'm sorry?

20 THE WITNESS: To associates of the
21 President.

22 THE REPORTER: I did not hear the verb.

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1 THE WITNESS: Could be "hurtful".

2 BY MS. FISHER: (Resuming)

3 Q Could you expand on that at all? What was
4 your understanding of what he meant by that?

5 A I think he was referring to the unexpected
6 directions that a special counsel investigation could
7 go. Again --

8 Q Did you want to add to that?

9 A No.

10 Q Is there anything else that you recall?

11 A No.

12 Q Who else at any of these meetings
13 expressed a view that was similar to Mr. Nussbaum's?

14 MR. TODD: Objection. I just don't
15 understand what you mean by "similar view". If he
16 does, that is fine.

17 BY MS. FISHER: (Resuming)

18 Q A view that the President should not
19 appoint a special counsel.

20 A I don't recall whether others expressed
21 the same view.

22 I just don't remember that view being

1 expressed.

2 Q What do you recall about Mr.
3 Stephanopoulos?

4 A What I recall about what Mr.
5 Stephanopoulos said was that he agreed that the
6 appointment of a special counsel was not warranted
7 and was a bad thing, but that it was going to happen
8 given the political pressure for it to happen, and
9 that therefore it would be appropriate -- that it would
10 be the wisest course for the President to ask the
11 Attorney General for it.

12 Q Did you express a view at any of these
13 meetings?

14 A Not as far as for a special counsel.

15 Q Did you express a view as to whether the
16 President should appoint a special counsel at any of
17 these meetings?

18 A I don't remember expressing a view.

19 Q Do you recall whether Ms. Williams
20 expressed a view?

21 A I don't remember her expressing a view.

22 Q Did you ever have any discussions with Ms.

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1 Williams about this issue?

2 A About Whitewater? Or about --

3 Q I'm sorry, about whether it was wise for
4 the President to appoint a special counsel.

5 A I don't recall specifically.

6 I don't remember any conversations with
7 her about that.

8 Q Did Mr. Gearan express a view as to
9 whether it was wise for the President to appoint a
10 special counsel?

11 A I remember Mr. Gearan expressing a view
12 that it was -- I remember him making -- expressing a view
13 which was, as a general matter this is a serious
14 thing and ought to be taken seriously, but I don't
15 remember whether he expressed a view beyond that of
16 what was the appropriate thing for the President to
17 do.

18 Q What about Mr. Ickes?

19 A I don't remember him expressing a view.

20 I don't remember -- when I say I don't
21 remember him expressing a view, I don't have a
22 recollection -- I don't remember specific people

1 expressing these views.

2 Q You just remember the general discussion?

3 A Yes.

4 Q What else do you remember about the
5 discussions that occurred between January 4th and
6 January 12th, 1994, at the daily meetings?

7 A That's a -- Could you rephrase the question
8 or give --

9 Q Other than what you've testified about,
10 which is the issue of whether it was wise for the
11 President to appoint a special counsel, which you
12 said was debated, and responding to press inquiries,
13 what else do you recall?

14 A That was my -- those are my recollect --
15 that's what I remember from those meetings at this
16 moment at least.

17 Responding to press inquiries was in fact
18 the bulk of the discussion and what I was focusing
19 on.

20 Q If we can look at your notes, 20586 to
21 20588?

22 A Yes.

1 Q At the top of 10586 it says:

2 Cues for Bassett, MW to BL.

3 Do you recall what that refers to?

4 A Bassett -- I don't recall what the entry
5 specifically refers to.

6 Bassett would have been, would -- I would
7 logically assume that Bassett is Beverly Bassett
8 Schaffer, who was the Securities Commissioner in
9 Arkansas responsible for Madison. "MW" are my
10 initials, and "BL" are Bruce Lindsey's initials. But
11 I don't recall what this was supposed -- what
12 specifically this was supposed to be. I don't recall
13 this.

14 Q Did you prepare -- did you speak to Ms.
15 Bassett at any time?

16 A No -- not -- no.

17 Q Do you want to --

18 A No.

19 Q Either on the phone or at a meeting?

20 Were you present at a meeting where she
21 was at?

22 A No.

1 Q Were you ever present in the White House
2 when Ms. Bassett was at the White House?

3 A Not to my knowledge.

4 Q Did you prepare questions for Ms. Bassett
5 to give to Bruce Lindsey at some time?

6 A I don't remember preparing questions for
7 Ms. Bassett.

8 Q To the best of your knowledge, this "BL"
9 is Bruce Lindsey? Is that correct?

10 A As far as know. To the best of my
11 knowledge, "BL" are Bruce Lindsey's initials. I
12 don't know of any other BL involved with this.

13 But as I said, I don't remember preparing
14 questions.

15 Q Do you recall discussions with Bruce
16 Lindsey about Ms. Bassett?

17 A Yes.

18 Q What do you recall about those
19 discussions?

20 A One of the most prevalent charges in the
21 press at the time was that she had regulated Madison
22 Guaranty in a lax or improper way, and she had

1 publicly defended her conduct.

2 And what I discussed with Mr. Lindsey was
3 how -- was whether -- what I discussed with Mr. Lindsey
4 and with others was how she could get her arguments
5 out to the public and that they would be accurate.

6 Q What else do you recall?

7 Do you recall anything more specific about
8 your conversations with Mr. Lindsey about
9 Ms. Bassett?

10 A Yes. Well, he gave me copies of her -- I
11 was asked to compile materials from public documents
12 and other sources on what she had been saying, and on
13 what she had done as a securities regulator, and
14 Bruce gave me copies of the memoranda that she had
15 given to The New York Times in 1992. And I remember
16 him giving me those.

17 Q Do you recall anything else about your
18 discussions with him?

19 A I remember that Mr. Lindsey was in touch
20 with Mr. Tisdale at the law firm of Wright, Lindsey,
21 Jennings.

22 Q What was Mr. Tisdale's involvement in the

1 issue?

2 A I don't know.

3 I don't "know." My general recollection,
4 what I generally remember was that he was in some way
5 her representative. He was in some way Beverly
6 Bassett Schaffer's representative. He was her law
7 partner.

8 Q And what is your understanding of the
9 conversations that took place between Bruce Lindsey
10 and Mr. Tisdale about Ms. Schaffer?

11 A I don't know what was discussed in those
12 conversations.

13 Q Did Mr. Lindsey ever tell you about his
14 discussion?

15 A No.

16 Q How did you have a general understanding
17 that he was in touch with Mr. Tisdale?

18 A He told me that he was in touch with Mr.
19 Tisdale, but he did not discuss with me the contents
20 of the conversation -- or at least I don't remember him
21 discussing any of the contents of the conversation.

22 Q Did Mr. Lindsey provide you facts relating

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1 to the issues surrounding Ms. Schaffer?

2 A Only the documents. All I remember him
3 providing are the documents from the -- The New York
4 Times documents.

5 Q Did he provide you with any other facts,
6 orally?

7 A I don't remember him providing me with
8 facts orally.

9 I don't remember Mr. Lindsey providing me
10 with facts orally.

11 Q Do you recall anyone providing you with
12 any facts orally?

13 A I don't recall specific people providing
14 me with facts orally, but I recall, as I say, general
15 discussions. I recall generally that -- well -- I don't
16 really recall beyond what I said before, which was
17 that there was a sense that the story that -- the facts
18 that she had given to The New York Times were useful
19 to the argument on behalf of the President and First
20 Lady.

21 Q Were you present at any meetings where it
22 was discussed that someone from the White House

1 needed to speak to Ms. Bassett Schaffer?

2 A Yes.

3 Q What do you recall about that meeting?

4 A I don't recall specifically what meeting
5 it was at, or what -- I don't recall specifically very
6 much about the meeting. I recall being told that she
7 was planning to, or in some way was expected to hold
8 a press conference, or in some other way make herself
9 available to the press.

10 Q And you believe you came to this knowledge
11 through some meeting, or somebody else in the White
12 House?

13 A Yes.

14 Q But you don't recall who that person is?

15 A Right.

16 Q Do you recall -- what else do you recall
17 about discussions in the White House involving
18 Ms. Bassett Schaffer? I guess now I've called her
19 "Ms. Bassett," "Ms. Schaffer" and Ms. Bassett
20 Schaffer." Why don't we just call her Ms. Schaffer.

21 A Well, I recall a discussion of sending
22 people down to talk to her before the press

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1 conference to --

2 Q To what?

3 A I recall that I was of the view that if I
4 were to go down, that what I would be doing is asking
5 her the types of questions that the press would be
6 asking.

7 Q Did anybody ask you to go down?

8 A There was a discussion of going down, and
9 at one point it was suggested that I would be one of
10 the people that would go down. I don't recall being
11 asked to go down.

12 Q Was somebody going to go with you?

13 A My recollection is that Paul Begala would
14 go.

15 I should add, now that this refreshes my
16 recollection on the issue of who attended the
17 meetings as a general matter, a frequent -- not a -- I
18 don't recall a consistent attendee but an occasional
19 attendee was Paul Begala and Dee Dee Myers, who was
20 then the President's Press Secretary.

21 Q Who was Paul Begala?

22 A At the time he was a consultant, a

1 political consultant who worked for the President
2 through the DNC.

3 Q He worked at the DNC?

4 A He was a political -- I don't believe he
5 worked at the DNC. He was a political consultant.

6 Q Was anyone else from the White House going
7 to go to Arkansas, as well, to talk to Ms. Schaffer?

8 A I don't remember anybody else from the
9 White House being discussed as going.

10 Q Who do you recall raising this issue?

11 A I don't remember.

12 Q So it is your understanding, or it is your
13 testimony that at some point it was suggested that
14 you and Mr. Begala would go to Arkansas to prepare
15 Ms. Schaffer for her press conference?

16 MR. TODD: Objection. I don't understand
17 what you mean by "prepare Ms. Schaffer for the press
18 conference."

19 MS. FISHER: I think I used his wording.

20 MR. TODD: If he understands it, he can
21 answer it.

22 THE WITNESS: My recollection, what I

1 remember is that what I was planning to do was to ask
2 her questions that could be expected for reporters to
3 ask, if I were to go down, but the trip never
4 occurred and I never talked to her.

5 BY MS. FISHER: (Resuming)

6 Q Do you know if anyone else from the White
7 House talked to her?

8 A I don't.

9 Q Was it suggested that you go through her
10 story with her?

11 A My -- I don't remember any suggestion like
12 that. As I say, all I remember is my expectation
13 that what I would be doing, if I were to go, would be
14 to ask the types of questions that the press would
15 ask.

16 Q Do you recall anyone at the White House
17 expressing the view that Ms. Schaffer was very
18 important to what the White House was trying to
19 accomplish with regard to Whitewater at this time?

20 A I don't remember that.

21 Q Did you have discussions with anyone other
22 than -- do you recall any discussions other than the

1 ones you had with Mr. Lindsey about Ms. Schaffer?

2 A Within the White House?

3 Q Within the White House.

4 A I don't recall specifically any other
5 discussions. I don't remember -- I don't remember any
6 other discussions with any individuals. As I say, I
7 remember as a general matter it being discussed.

8 Q Do you recall that it was discussed at
9 those daily meetings?

10 A Yes.

11 Q What do you recall about those
12 discussions?

13 A Again, I don't remember what was discussed
14 other than this -- other than what I've said, which was
15 that this was one of the main charges at the time
16 being leveled against the President; that she had
17 publicly and consistently argued that she had acted
18 properly in her regulation of Madison, and that that
19 was an important fact.

20 Q Do you recall anyone at the White House
21 expressing the concern that she may not have acted
22 properly?

1 A I don't recall anybody expressing that
2 view. I recall myself wanting -- I don't recall
3 anybody expressing that view.

4 Q Do you recall any concern whatsoever in
5 the White House with regard to whether -- strike that.
6 Do you recall concern at the White House
7 that Ms. Schaffer may have done something that was
8 less than proper or appropriate?

9 A I don't remember anybody expressing that
10 view.

11 Q Do you recall being concerned about that?
12 MR. IVEY: What was the question? I'm
13 sorry?

14 MR. TODD: "Do you recall being concerned
15 about that?"

16 THE WITNESS: I recall before I received
17 her memos not knowing, and I recall looking at her
18 memos and feeling that she had made a persuasive
19 case.

20 BY MS. FISHER: (Resuming)

21 Q What do you mean by "persuasive case"?

22 A That she had explained her actions in a

1 way that indicated that she had in fact acted
2 responsibly.

3 Q Other than reading her memos, did you do
4 anything to assure yourself of that?

5 A The only thing I did was I made a phone
6 call to a friend of mine who was familiar with
7 securities regulators and asked whether she had a
8 good reputation, and I was assured that she had a
9 strong reputation as someone who was appropriately
10 tough.

11 Q Who was that?

12 A Maurine Thompson, who was a lobbyist for
13 the State Securities Regulators.

14 Q So other than your conversation with Ms.
15 Thompson and reading Ms. Schaffer memos, did you do
16 any other fact-gathering with regard to the actions
17 that Ms. Schaffer took in relation to Madison
18 Guaranty?

19 A I don't remember doing other fact
20 gathering.

21 Q Was there somebody in the White House that
22 would have been in charge of fact gathering on that

1 issue?

2 A On the issue of Beverly Bassett Schaffer?

3 Q Yes.

4 A I would have been. Well, I would have
5 been during this two-day period when there was an
6 anticipation that she would possibly hold a press
7 conference, but all I did was rely on material that
8 Bruce Lindsey provided which was, as best I can
9 recall, her memos to The New York Times, and press
10 clips from The Times. Because at the time, the press
11 had written about it and The Wall Street Journal, for
12 example, had concluded that there was no improper
13 pressure on her in her regulation of Madison. And,
14 other public-record things like news clippings and
15 that sort of thing.

16 Q Did you talk to anyone else at all in an
17 attempt to assure yourself that Ms. Schaffer acted
18 appropriately?

19 A No.

20 Q Did you talk to anyone else -- anyone in
21 Arkansas, for example?

22 A Not -- no -- not to -- no.

1 Q Did you talk to Mr. Tisdale?

2 A No. I don't believe I did.

3 Q Did you make any phone calls to anyone in
4 Arkansas?

5 A I made a phone call, as best I can recall,
6 to someone in Arkansas named Skip Rutherford who was
7 a consultant to the White House during the period
8 when it was possible that I was going to come down to
9 Arkansas, but I don't recall discussing whether her
10 story -- anything about her story with him.

11 Q What do you recall discussing with
12 Mr. Rutherford?

13 A Simply the fact that she might be telling
14 her story publicly.

15 I don't remember, beyond that. But I
16 don't remember discussing specifics of what she had
17 done or anything like that.

18 Q Was Mr. Rutherford acquainted with
19 Ms. Schaffer at that time?

20 A I don't -- I guess. I don't know.

21 Q Do you recall him having any knowledge
22 about this potential press conference?

1 A I have a vague -- I vaguely remember that he
2 did, but I don't remember much about the call.

3 Q Did Mr. Rutherford tell you that he had
4 spoken to Ms. Schaffer?

5 A I don't remember if he did or didn't.

6 Q Did you ask Mr. Rutherford to take any
7 action?

8 A I don't remember asking Mr. Rutherford to
9 take any action.

10 Q So my understanding is: To the best of
11 your recollection, you called Mr. Rutherford --

12 A -- or I --

13 Q -- and you --

14 A I'm sorry.

15 MR. TODD: The court reporter can only get
16 one of you at a time.

17 THE WITNESS: I'm sorry.

18 BY MS. FISHER: (Resuming)

19 Q You called Mr. Rutherford and the only
20 thing you recall about the conversation is that you
21 discussed that Beverly Bassett Schaffer might be
22 telling her story publicly?

1 A I have a general memory of talking to
2 Mr. Rutherford. I don't remember whether I called
3 him or he called me.

4 Q Do you recall anything else at all about
5 the conversation?

6 A No.

7 Q Did you have more than one conversation
8 with him?

9 A I don't remember having more than one.

10 Q Did Mr. Rutherford ask you to take any
11 action?

12 A Not that I remember.

13 Q Did he provide you with any facts
14 regarding Ms. Schaffer?

15 A Not that I remember.

16 Q Do you recall speaking to anyone else in
17 Arkansas during this time period?

18 A Not that I remember.

19 Q Was this the first time that you spoke to
20 Mr. Rutherford?

21 A No.

22 Q Did you speak to him on occasion?

1 A I spoke to Mr. Rutherford on occasion.

2 Q Did you ever have any other contacts with
3 Mr. Rutherford regarding Whitewater, Madison,
4 Department of Justice investigation, anything related
5 to the matters specified in Senate Resolution 120?

6 A No, nothing -- I don't remember anything
7 specific other -- I am just sort of wracking my brain.

8 Q Sure.

9 A No.

10 Q Do you recall ever discussing with
11 Mr. Rutherford any potential witnesses or individuals
12 that you may like to speak to, or that he had spoken
13 to in Arkansas?

14 A No.

15 When I say I don't remember anything
16 specific, I have a vague memory over the months of
17 saying, you know -- or of my saying, or of him saying,
18 oh, you know, there was a bad story in the press, or
19 something like that, but nothing beyond that.

20 Q Did he tell you at any time about any
21 conversations he had with anyone in Arkansas relating
22 to any of the matters specified in Senate Resolution

1 120?

2 A I don't remember any conversation with him
3 in which he said that, or anything like that.

4 Q At the time of this activity with relation
5 to Ms. Schaffer, were you aware of the President's
6 concern regarding the issues surrounding
7 Ms. Schaffer?

8 A No.

9 Q Were you aware of a New York Times
10 editorial that was published in December of 1993
11 where the President had written some handwritten
12 notes regarding Ms. Schaffer?

13 A No.

14 Q Were you aware that Mr. Lindsey had spoken
15 with Mr. or Mrs. Schaffer at a basketball game he
16 attended in December of 1993?

17 A No.

18 Q Did you ever become aware of that?

19 A No.

20 Q Were you aware that Ms. Schaffer
21 attended -- well, Ms. Schaffer visited the White House
22 in January of 1994?

1 A I have read it subsequently. I don't
2 remember knowing it at the time.

3 Q So no one, for example, told you that she
4 was coming in town, or that she --

5 A No.

6 Q -- had been present at the White House?

7 A No. Not at the time. And, as I say, I've
8 read it subsequently, and it's possible -- I know it
9 from what I've read since. I don't remember knowing
10 it then.

11 I have a vague memory of knowing that she
12 was at a basketball game that the President was at,
13 but I don't remember anything beyond that.

14 Q You have a vague memory that you knew that
15 at the time, back in December of 1993, early 1994?

16 A I have a vague memory that I knew that at
17 the time.

18 Q Do you believe that somebody told you the
19 President had seen Ms. Schaffer at a basketball game?

20 A I don't remember that.

21 Q Do you have any recollection of someone
22 telling you this information?

1 A No.

2 Q So --

3 A I have subsequently read press accounts of
4 that, and I remember the press accounts. I don't
5 remember being told it at the time, and I don't
6 remember knowing it at the time, but -- I just don't
7 remember.

8 Q But when you read the press accounts, you
9 thought, oh, I knew this before? Is that why you
10 have a "vague recollection" that you knew it at the
11 time?

12 A As I say, I have a vague recollection of
13 something about a basketball game, but I don't
14 remember anything beyond that.

15 Q When it was suggested that you go down to
16 Arkansas and meet with Ms. Schaffer, was there any
17 discussion about whether it would be proper for
18 officials from the White House to meet with potential
19 witnesses during an ongoing Department of Justice
20 investigation into matters relating to Madison?

21 A Shortly after the idea was first raised,
22 and I don't remember exactly how long, but shortly

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1 after the idea was first raised, it was suggested
2 that it was a bad idea and the idea was immediately
3 dropped.

4 Q Do you know who suggested it was a bad
5 idea?

6 A I don't remember who said it was a bad
7 idea.

8 Q Do you recall why they said it was a bad
9 idea?

10 A I remember generally that it was -- that the
11 objection was made that it would get out publicly,
12 and I remember generally that it would somehow be or
13 appear to be improper. But as I say, as soon as the
14 first objection was raised to it, at least that I
15 knew of, the idea was dropped, and of course it never
16 occurred.

17 Q To the best of your knowledge?

18 A To the best of my knowledge. That's
19 correct. At least I know I certainly didn't go
20 there.

21 Q But you recall that the concern was that
22 it would get out publicly and appear to be improper,

1 and my question was more focused on whether there was
2 concern not about the appearance, but about the fact
3 of whether it was proper for White House officials to
4 be contacting potential witnesses during an ongoing
5 Department of Justice investigation?

6 A I think I said that I have a general
7 memory of the concern being that it was going to get
8 out, and that it had either the appearance of being
9 improper or being improper.

10 I don't remember which of those -- whether
11 those arguments were made exactly, or who made them.
12 As I say, there was no extended discussion of it once
13 someone made an objection; everyone agreed it was a
14 bad idea, in my presence at least. And as far as I
15 know, I did not go, and that idea was dropped
16 immediately.

17 Q Were you aware that Mr. Rutherford
18 contacted Ms. Schaffer or her husband shortly after
19 that?

20 A I'm not currently aware of that, no.

21 Q And you weren't aware of that at the
22 time?

1 A Again, I don't remember that. As I said,
2 I spoke to Mr. Rutherford during that period. I
3 don't remember the exact chronology, but I'm not
4 aware of that now.

5 Q Are you aware that Ms. Bassett Schaffer
6 has made statements to the press that Mr. Rutherford
7 at one time contacted her regarding these issues?

8 A Again, I've seen that recently; and again
9 I know that I spoke to Mr. Rutherford at the time. I
10 don't know specifically what he -- I don't remember
11 specifically what he -- whether he -- what he said about
12 whether he had talked to her, or anything like that.

13 Q And what do you recall -- do you recall
14 knowing anything at that time with regard to whether
15 Mr. Tisdale was going to talk to Ms. Schaffer on
16 behalf of the White House?

17 A As I said, Mr. Lindsey, once the idea was
18 raised and dropped that it would be improper for me
19 to go to Arkansas to prepare her for questions from
20 the press, for a possible press conference, I had no
21 further -- there was no further thought that I would
22 have any interaction with her. And as I said,

1 Mr. Lindsey was in discussion or was in some way in
2 contact with Mr. Tisdale and I don't know what
3 happened after that.

4 Q Other than Ms. Schaffer, do you recall any
5 conversations or discussions at the White House about
6 contacting others with regard to Madison/Whitewater-
7 related matters?

8 A Could you repeat the question? I'm sorry.

9 Q Other than the discussions about possibly
10 contacting Ms. Schaffer, the suggestion that you go
11 out to Arkansas, do you recall any discussions about
12 similar such contact with other potential witnesses
13 dealing with Whitewater-Madison?

14 A I don't remember any such discussions.

15 Q So do you recall whether you were ever
16 asked to contact anyone?

17 A I don't recall ever being asked.

18 THE WITNESS: May I -- would you mind if we
19 had a discussion?

20 MS. FISHER: No. That's fine. Sure.

21 MR. IVEY: Could we take a break now to
22 make a few phone calls?

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1 MS. FISHER: Do you want to take ten
2 minutes?

3 (Recess.)

4 MS. FISHER: Back on the record.

5 BY MS. FISHER: (Resuming)

6 Q In these meetings in early January -- Did I
7 have a pending question?

8 MR. IVEY: No.

9 BY MS. FISHER: (Resuming)

10 Q In these meetings in early January 1994,
11 did Web Hubbell attend any of the meetings?

12 A I don't recall ever seeing Web Hubbell
13 there.

14 Q Do you recall discussing any of these
15 issues with Mr. Hubbell?

16 A No.

17 Q Do you recall attending any meetings with
18 regard to Madison, Whitewater, Rose Law Firm issues,
19 with Mr. Hubbell?

20 A No.

21 Q Having any conversations with him about
22 any of those matters?

1 A No, I don't remember any of that.

2 Q Continuing on with your notes on 20586, do
3 you recall what the entry "corroborating witnesses"
4 refers to?

5 A No.

6 Q Was there an attempt to find witnesses who
7 would corroborate Ms. Schaffer's story?

8 A Not that I can remember.

9 Q Do you have a vague recollection of what
10 this could possibly refer to?

11 A No.

12 Q What about treatment of Madison?

13 A I don't know what that refers to.

14 Q It doesn't refresh your recollection at
15 all in context that there was an attempt to find
16 corroborating witnesses for Ms. Schaffer's treatment
17 of Madison Guaranty?

18 A I don't remember any effort to speak to or
19 in any other way contact corroborating witnesses on
20 this matter -- on this aspect of the matter, or any
21 other aspect of the matter.

22 Q Okay.

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1 A And I don't know what "treatment of
2 Madison" refers to.

3 Q Did you have any meetings with David
4 Kendall?

5 A I was present at meetings that David
6 Kendall -- that David Kendall was present at.

7 Q In early January 1994?

8 A I don't remember whether I was present at
9 any meetings with him in early January of 1994.

10 Q What do you recall about the meetings
11 that you were present at that Mr. Kendall was present
12 at?

13 A I recall --

14 THE WITNESS: May I consult with counsel?

15 MS. FISHER: Absolutely.

16 (Discussion off the record.)

17 MS. FISHER: Back on the record.

18 BY MS. FISHER: (Resuming)

19 Q What do you recall about the substance of
20 any meetings that you were present at that Mr.
21 Kendall was also present, to the extent that they
22 relate to matters specified in Senate Resolution 120?

1 A As I say, I don't remember specifically
2 attending meetings with him during this period. I
3 remember generally phone conversations with him
4 during this period because he was one of the people
5 to whom I showed drafts of material that I was
6 writing.

7 Q What do you recall about your discussions
8 over the telephone with Mr. Kendall?

9 A I don't remember specifically anything
10 other than him making comments on the drafts, or
11 providing facts, or that kind of thing.

12 Q Okay, going on to the next page of your
13 notes, 20587, do you recall when this document was
14 created?

15 A I don't remember. This is my handwriting,
16 or it appears to be my handwriting. I don't remember
17 writing this document, and I don't -- therefore, I
18 don't remember when it was created.

19 It appears to be, logically, notes going
20 through what the charges were in the press at the
21 time that we needed to provide facts in response to,
22 but as I say, I don't remember writing it.

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1 Q Can you just read your notes and tell me
2 if you have any recollection of anything that is in
3 here? Or if you could explain generally what you
4 recall that they may refer to, the notes?

5 A I'll try. Again, I'll read the notes and
6 try --

7 MR. TODD: I would express an objection to
8 the extent that he just told you he doesn't recall
9 what the notes refer to, and you've asked him to read
10 them and then give his recollection of what they may
11 have referred to.

12 So it is asked and answered.

13 Just so he understands that, as he reads
14 through them, you are asking if it refreshes his
15 recollection. And if it does, he should give you
16 that refreshed recollection, but I take it you are
17 not asking him to read them and then give you a
18 logical conclusion of what they may refer to?

19 Correct?

20 MS. FISHER: Well I don't want a logical
21 conclusion. I don't want a guess. But if he reads
22 "ND counsel" and he believes that discussion around

1 this time was that there was an independent counsel,
2 I would expect that he could tell me that.

3 I mean, he can qualify his answers any way
4 that he wants. What I am trying to get at is what
5 these notes mean.

6 MR. TODD: Right. But my objection is
7 that, as to the form, I want to make sure that he
8 understands what you are asking him to do. And I am
9 not clear what it is you are asking him to do.

10 If he reads that and he has a refreshed
11 recollection, he is certainly obligated and I am sure
12 will give you what his recollection is.

13 On the other hand, if you are asking him
14 to read it and then give his logical conclusion from
15 what it says, that is something different, if he
16 understands it.

17 MS. FISHER: Well I guess there are
18 basically three questions.

19 One is: What do the notes say?

20 Two is: Does it refresh your recollection
21 of what these notes may have referred to when you
22 took them?

1 And three is: Do you have any idea
2 sitting here today what these notes might refer to?

3 So I was just trying to push them together
4 to make it go a little bit quicker, but I can ask
5 them separately just so the record is clear, if your
6 counsel would prefer.

7 MR. TODD: I just want to make sure that
8 he is clear what he is answering.

9 BY MS. FISHER: (Resuming)

10 Q Okay.

11 A I will try, and if I get confused as I go
12 along I will ask for help.

13 It says "Qs and As" "ND counsel",
14 independent counsel. "Final draft." I don't know
15 what that refers to other -- this does not refresh my
16 recollection of what it refers to. There was
17 discussion at the time of whether inside and outside
18 the White House whether the President should request
19 a special counsel.

20 "Improper conduct", I don't know what that
21 refers to.

22 "Why take long, or so long" I can't tell.

1 I don't know what that refers to.

2 "When put in the money, or \$". I don't
3 know what refers to.

4 "Last ENTRE," last entry, I don't know
5 what that refers to.

6 "Why 12/92 to get out of it?" This
7 doesn't refresh my recollection of these writing
8 these notes, but I know that at the time there was a
9 press question that the President and First Lady if I
10 remember correctly, sold their interest in Whitewater
11 in December of 1992, and one of the questions was why
12 they didn't do so earlier. So it's possible that
13 that's what this refers to. That's my logical
14 inference, but I don't remember.

15 "Was proper for Vince to supervisor".
16 Again, this does not refresh my recollection. I
17 don't remember writing these notes. Again, at the
18 time in the press there was a question being raised
19 about whether Vince Foster was acting appropriately
20 in supervising tax returns, the preparation of tax
21 returns for the President and First Lady, and my
22 logical inference is that that was what that refers

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1 to.

2 Q So that refers to his involvement with the
3 President and First Lady's tax returns?

4 A That was one of the issues that was raised
5 at the time in the press.

6 Q And what is the reference to "supervisor"?

7 A I think probably -- I don't know. I'm
8 making a logical leap here that it's for Vince to
9 supervise, rather than supervisor.

10 Q Okay. Thanks.

11 A "None of the money," I don't know what
12 refers to.

13 "Her memos". I don't know what that
14 refers to.

15 "Madison not treated differently". Again,
16 this doesn't refresh my recollection; I'm making a
17 logical inference that it was again in some way
18 relating to whether Madison was treated in a
19 different manner than other savings and loans
20 similarly situated.

21 "Mrs. Clinton, who were three, the
22 fundraiser". Again, I don't remember writing this.

1 An issue in the press at the time was a fundraiser
2 that had been held for then-Governor Clinton, and
3 whether or not there were cashier's checks or
4 something like that, and there were three people.

5 So it may be that that's what that refers
6 to, but I don't know.

7 Q Why the reference to Mrs. Clinton?

8 A I don't know.

9 Q Did you ever have any conversations with
10 Mrs. Clinton regarding any of the matters relating to
11 Whitewater, Madison Guaranty, or the Rose Law Firm?

12 A The only conversation I ever had with Mrs.
13 Clinton that was similar to that at all was about a
14 month later. We were at a social gathering and she
15 said, I understand you helped out, and thank you for
16 your help.

17 Q Were you present at any meetings where
18 Whitewater, Madison, or anything was discussed -- any
19 of those related matters, the Rose Law Firm -- was
20 discussed where Mrs. Clinton was also in attendance
21 at the meeting?

22 A No.

1 Q Any phone conversations where she was also
2 on the line?

3 A No.

4 Q Any meetings where she was on speakerphone
5 and you were sitting in an office somewhere?

6 A No.

7 Q And I would ask the same questions with
8 regard to the President. Did you attend any meetings
9 where the President was in attendance relating to
10 Whitewater, Madison, or the Rose Law Firm?

11 A I remember attending a brief session where
12 he was going to be answering questions at a press
13 conference, or from the press, or something like
14 that, where the subject came up. And I don't
15 remember specifically what the issue was, and I don't
16 remember specifically what his answer was. It was
17 very cursory.

18 And -- that's one time.

19 Then the other time -- that's the only time
20 I was -- that's the only time I was in a meeting with
21 him where the issue came up.

22 Q Did you have any other contact with him?

1 A The other time is when he was on a foreign
2 trip and there was a conference call relating to his
3 decision, or what was soon to be his decision to ask
4 for a special counsel.

5 I was in the room back in Washington where
6 the people who were holding the call with the
7 President were talking to him.

8 Q What do you recall about that
9 conversation?

10 A I don't really recall very much of it.

11 I recall -- I don't really have a
12 recollection of it other than he was calling from an
13 airplane.

14 MR. IVEY: I'm sorry?

15 THE WITNESS: He was calling from an
16 airplane.

17 BY MS. FISHER: (Resuming)

18 Q Who was in the room?

19 A My memory is that -- I don't -- I don't
20 remember everybody who was in the room, but I
21 remember that -- I believe that Mr. Nussbaum -- I believe
22 that Mr. Nussbaum was in the room. I believe that

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1 Mr. Carville was in the room.

2 Q Carville?

3 A That was Mr. Begala's partner.

4 But that may -- I don't really remember.

5 Let me just say, I remember that -- I remember that Mr.
6 Carville was in the office where the call took place
7 at some point that day, but I don't remember if he
8 was there for the call.

9 And I don't remember, beyond that, who was
10 there.

11 Q Do you remember whose office it was in?

12 A Mr. McLarty's office.

13 Q Was there some kind of meeting prior to
14 the call?

15 A I don't remember a meeting. At least I
16 didn't attend it. I don't remember attending a
17 meeting.

18 Q Did you come in and the call had already
19 been placed in mid-call when you walked in?

20 A I don't remember.

21 Q Did somebody invite you to be in this
22 meeting where the President was going to call?

1 A I don't remember the circumstances.

2 Q What specifically, or what generally do
3 you remember about the conversation where the
4 President called?

5 A As I said, I don't remember it very well.
6 It may have been a discussion of the letter. I have
7 a vague memory that it may have included a discussion
8 of the letter that would be sent under Mr. Nussbaum's
9 name to Attorney General Reno, but I don't remember
10 beyond that.

11 Q Is it your recollection that the decision
12 to appoint a special counsel had been made by the
13 President prior to the phone call?

14 A I don't remember.

15 Q Do you recall any kind of discussion of
16 whether he should, whether he shouldn't, on this
17 particular phone call?

18 A No.

19 Q Do you remember anybody expressing any
20 views as to what should be done on this phone call?

21 A As I say, I don't remember the phone -- I
22 don't remember what was -- I don't remember the phone

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1 call with any detail.

2 Q Do you recall whether Ms. Reno had already
3 determined that she was going to call for a special
4 counsel prior to the President making his decision to
5 call for a special counsel?

6 A I don't remember -- I don't remember that.

7 Q Do you remember one way or the other?

8 A Well I only remember -- I only remember
9 recently reading, in preparation for this deposition,
10 reading newspaper articles at the time that indicated
11 that, but I don't remember that myself at all from --

12 Q That indicatedd what?

13 A She had -- well, actually, excuse me.

14 What she said, as I recall from the
15 newspaper articles, was that if the independent
16 counsel statute passed that she would take advantage
17 of it to ask something -- for it to be done, or
18 something like that, but I don't ever remember
19 hearing any discussion of her having decided one way
20 or the other at the time prior to the President
21 asking.

22 And I'm not aware of that.

1 Q Do you remember any discussion about Ms.
2 Reno's statements or decision at any of the meetings
3 you attended in early January 1994?

4 A All I remember is discussion -- is general
5 discussion of her public statements at the time,
6 which was that she did not feel that it was
7 appropriate to appoint a special counsel. But I
8 don't remember anything other than that.

9 Q Do you remember that anyone at the White
10 House spoke with Ms. Reno about the appointment of a
11 special counsel?

12 A I don't remember it, and I'm not aware of
13 it.

14 Q So you don't recall any discussion at all
15 in any of the meetings that you attended from January
16 4th to January 12th about whether someone had talked
17 to Ms. Reno or someone had --

18 A Not in any meetings I attended.

19 Q Okay.

20 How about contacts with other members of
21 the Department of Justice regarding the appointment
22 of a special counsel?

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1 A Not that I remember.

2 Q You have no knowledge of anyone in the
3 White House contacting anyone at the Department of
4 Justice regarding a special counsel?

5 A I have no knowledge of it.

6 Q And that's first-hand knowledge, or
7 second-hand knowledge? Right? You didn't see it,
8 and also you never heard that that happened?

9 A I didn't see it and I didn't hear it.

10 Or at least I certainly don't remember
11 seeing it or hearing it.

12 Q Going to the next page of your notes,
13 S20588.

14 A Um-hmmm.

15 Do you want me to read it?

16 Q Yes.

17 A It says: "Abby Lowell."

18 Q Who is Abby Lowell?

19 A He is an attorney in Washington who I know
20 from personal experience had some knowledge on S&L
21 issues, but I don't have any memory of writing this,
22 and I don't know what it refers to.

1 Q Okay.

2 A And it says, "specific expertise," but
3 again I don't remember what this refers to, or
4 anything like that.

5 Q Okay.

6 A And then it says "Villa" or "Via" and then
7 it says "Kendall". And again, Kendall is the name of
8 the attorney for the President and First Lady, but I
9 don't know what it refers to.

10 Then it says, "collect," and I don't know
11 what that refers to.

12 Then it says, "There is no evidence of"
13 and again I don't know what that refers to, and I
14 don't remember writing this. Logically it may be
15 that this was shorthand for saying there is no
16 evidence of credible wrongdoing, which was the
17 standard at the time, and is still the standard for
18 appointment of special counsel.

19 Of course I may have misphrased it, but
20 that may have been a shorthand for that. But as I
21 say, I don't remember what this is.

22 Q Did you have any conversations with Susan

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1 Thomasses about Whitewater, Madison, or the Rose Law
2 Firm?

3 A Not that I can remember.

4 Q Were you present at any meetings
5 Ms. Thomasses attended?

6 A Ms. Thomasses was present at one -- at the
7 meeting I referred to where the President -- where the
8 President was being spoken to by the large group of
9 staff for a press conference. I recall that she was
10 there.

11 But again, as I say, I don't really
12 remember a detailed discussion of this matter at all
13 at that meeting, and I don't remember her speaking -- I
14 don't remember the details of that discussion.

15 Q Did you attend any other meetings where
16 Ms. Thomasses was present?

17 A I don't remember attending any other
18 meetings on this subject where she was present.

19 Q Do you recall when that meeting that you
20 had with the President, or that you attended with the
21 President prior to a press conference, occurred?

22 A No.

1 Q Let me ask you about a document that you
2 produced, 20617, entitled "Specific Questions and
3 Answers on Whitewater."

4 A Yes.

5 Q Did you prepare this document?

6 A I don't remember preparing this document.
7 However, it was on my computer drive and it appears
8 to be the type of document that would be prepared
9 when the President would be expecting to answer press
10 conferences, and a whole host of different offices in
11 the White House produced questions and answers of
12 this sort on a variety of topics.

13 Q Was there anyone else at the White House
14 who was producing specific question-and-answer type
15 documents on Whitewater and Rose Law Firm matters?

16 A I don't know.

17 Q Do you recall when this document was
18 prepared?

19 A As I said, I don't recall the preparation
20 of this document, but I'm making the logical
21 inference that it dates from early nineteen -- I
22 believe it dates from January of 1994.

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1 As I say, I don't remember producing it,
2 but I think that's when it dates from.

3 Q Does anyone else normally use your
4 computer?

5 A No.

6 Q Do you have any reason to believe that
7 somebody else got onto your computer and prepared
8 this document?

9 A No. I just don't remember doing it.

10 Q No, I understand. I just want to make
11 sure I exclude all the other possibilities.

12 Do you recall being asked to prepare
13 questions and answers in early January 1994?

14 A No.

15 Q Do you recall how you went about gathering
16 facts to create this document, or a document like it?
17 Do you have a recollection of creating documents like
18 it?

19 A I do not -- again, I do not remember
20 creating this document, and I don't remember
21 specifically who provided what facts for this or the
22 other document from that period.

1 This appears to be much the same as a
2 number of other documents that I worked on at the
3 time, and in general the facts were provided by the
4 White House Counsel's Office and Bruce Lindsey and
5 Mr. Kendall.

6 Q Who in the White House Counsel's Office?

7 A In general I worked with Neil Eggleston
8 who worked with me in preparing the documents. And
9 then others would look at documents to see that they
10 were -- but as I say, that is a general, my general
11 memory of how the process worked, but I don't know
12 specifically that that is what occurred for this
13 document.

14 Q So it's the best of your recollection that
15 Neil Eggleston was the one in the White House
16 Counsel's Office that was assigned to work on the
17 Whitewater and Madison issues?

18 A Neil Eggleston was one of the people in
19 the Counsel's office who worked on those issues.
20 Neil was someone who I worked with in preparation of
21 documents. Others also worked on the issue at
22 various points in the various levels.

1 Q Was he providing you legal advice, or
2 factual bases for documents?

3 A Factual bases.

4 Q And do you know how he was gathering his
5 facts?

6 A I don't remember specifically how he was
7 gathering his facts, no. But again, as I say, once a
8 draft of something was prepared, then it would be
9 circulated and if a fact was wrong it would be
10 pointed out and changes.

11 Q I want to direct your attention to the
12 first page, 20617, the second entry down, which is
13 entitled "Did Mrs. Clinton or the Rose Law Firm have
14 a conflict of interest in representing Madison or the
15 FDIC?"

16 Do you recall when you became aware that
17 there was an issue regarding the Rose Law Firm and
18 conflict of interest?

19 A No, I don't remember when I became aware
20 of it.

21 Q Was it early January, or later?

22 A I don't remember.

1 I mean, I don't remember when I became
2 aware of it, so I don't remember what the month was.

3 Q Do you recall doing any factual research
4 into the Rose Law Firm issues?

5 A No.

6 Q Did you attend any meetings where the Rose
7 Law Firm was discussed?

8 A I recall asking people in the White House,
9 in the course of preparation of these matters, what
10 we were supposed to say, but I don't recall being in
11 meetings where it was discussed.

12 Q Who do you recall asking?

13 A I recall asking Mr. Nussbaum. And at that
14 point Mr. Kennedy was in his office, and he said,
15 well, here's Bill Kennedy, and Mr. Kennedy said
16 something, I don't remember exactly, to the effect of
17 I can't discuss that, or I shouldn't discuss that.

18 And I don't recall, other than that, who --
19 but I don't recall that Mr. Nussbaum was the source
20 for this. As I said, I only remember generally who
21 the sources were, and it was --

22 Q Kendall, White House Counsels, and

1 Lindsey?

2 A Yes.

3 Q For the statement, "as for the
4 representation of Madison, Hillary represented them
5 one time in a limited fashion on one matter seeking
6 to get a ruling of law."

7 Do you recall anything about the basis for
8 which you made that statement?

9 A No.

10 Q When did you first learn that the First
11 Lady represented Madison with regard to other issues,
12 or issues other than the preferred stock?

13 A Could you restate the question, please?

14 Q Yes. I'm sorry. It was an unartful
15 question, to say the least.

16 When did you first become aware that the
17 First Lady while working at the Rose Law Firm
18 represented Madison Guaranty in relation to matters
19 other than the issuance of preferred stock?

20 A I don't remember specifically when.

21 I have a general memory that it was later,
22 but I don't really remember, nor do I really know in

1 any significant detail now what she did and didn't do
2 at the Rose Law Firm.

3 Q So you don't recall -- do you believe that
4 it was in 1994, 1995, or 1996?

5 A I don't remember.

6 I remember reading press reports recently,
7 but I don't remember any specific date or
8 recollection of her working on other matters.

9 I couldn't tell you right now what she
10 worked on on it.

11 Q There was a time when you became aware, at
12 some point, that she worked on matters for Madison
13 other than the preferred stock?

14 A As I said, at the very least recently
15 there were press reports that I read, and I don't
16 remember before that when or whether I was aware with
17 any particularity what -- and as I said, I don't really
18 know that I know what she worked on.

19 Q When you read the press reports saying
20 that she worked on other matters, for example the IDC
21 transaction, do you recall that you thought, oh, gee,
22 I didn't know that before?

1 I mean, do you recall being surprised
2 about that?

3 A No. But this -- I don't know how to say
4 this -- I haven't been following this issue in great
5 detail, and I don't really know when I learned
6 something like that, or if I could now relate to you
7 what I even know about that, other than what I have
8 read in the recent press reports.

9 So I don't remember being surprised, but I
10 really don't remember my reaction at all.

11 Q Have you had any discussions other than
12 the one you've described, with Mr. Nussbaum with
13 anyone in the White House about the First Lady's
14 representation of Madison Guaranty?

15 A I don't remember having those discussions.
16 But as I say, at the time I was working on documents
17 in which it was discussed and we got -- there must -- I
18 don't remember how the information was gathered, but
19 there was -- so I don't remember having those
20 discussions.

21 Q Do you recall somebody coming to you and
22 telling you that the statement, "as for the

1 representation of Madison, Hillary represented them
2 one time in a limited fashion on one matter seeking
3 to get a ruling of law" was incorrect?

4 A I don't remember anything like that, no.

5 Q So nobody brought to your attention that
6 this was improper -- or this was inaccurate, excuse me.

7 A I don't remember anybody bringing that to
8 my attention.

9 Q Generally who would you send these
10 documents to?

11 Was this prepared for the President?

12 A Again, I don't remember its preparation,
13 but its appearance is that it is for the President in
14 preparation for a news conference or some other place
15 where he was expecting to get questions.

16 Q Who would generally review this type -- I
17 understand that you don't remember this specific
18 document, but who generally would review this type of
19 material after you wrote it?

20 A In general, I think the review for
21 something like this would be those people I
22 mentioned, or the offices that I mentioned. Not

1 every document that goes to the President is reviewed
2 by everyone who should review it, not only on this
3 matter but on other matters.

4 I don't remember whether this was done on
5 a rush basis, or was something long in gestation. So
6 I don't know who reviewed it, but again as a general
7 matter when I was working on materials it would be
8 seen or have the input of the Counsel's office, and
9 Mr. Lindsey and Mr. Kendall.

10 Q And Mr. Kendall?

11 Is that what you said?

12 A As a general matter, it would not
13 necessarily in every case have all of their input,
14 but that was the universe of people to whom we would
15 go.

16 But again as I said, specifically I don't
17 know about this document, whether this was seen by
18 any of them, or all of them, or some combination.

19 Q When was this document printed off of your
20 computer to produce to the White House Counsel's
21 Office?

22 A I don't know when this version of it was

1 produced. A version of it was produced in 1995 when
2 I went through my hard-drive search to look for
3 documents that were responsive to the subpoena.

4 Q So you found it on your hard drive in this
5 form?

6 A I would have to compare the version that
7 was printed off the hard drive to this to answer
8 that, but --

9 Q So is it -- okay.

10 A It looks similar, yes.

11 Q What I'm trying to get at is whether this
12 document was ever corrected, and I can't -- you know,
13 I'm trying to --

14 A I don't remember it ever being corrected
15 to me. It may have been -- that doesn't mean -- I just
16 don't remember it ever being corrected to me.

17 Q I want to ask you about some other
18 documents you had.

19 This document, January 11th, 1994, from
20 Jake Seaward?

21 A Um-hmmm.

22 MR. TODD: What is the Bates Stamp number?

1 BY MS. FISHER: (Resuming)

2 Q 020589, Memo for Circulation. Subject:
3 Preferred Stock.

4 I just want to ask you, who is Mr.
5 Seaward?

6 A He was an assistant to Mark Gearan who
7 worked in the Communications Office.

8 Q Document 20591 to 20592, dated December
9 10th, 1987, which has a handwritten note, "Michael,
10 call me. Bruce."

11 To the best of your recollection is that
12 referring to you, "Michael"?

13 A I don't remember receiving this, but it
14 was in my files and so I'm assuming it was.

15 Q Do you recall having a discussion with
16 Mr. Lindsey about this letter?

17 A No.

18 Q Let me ask you about a document that is
19 Bates Stamped 20625 to 20628. It seems to be some
20 sort of printout.

21 Do you have any recollection of this
22 document?

1 A No.

2 Q Can you explain to me what it is?

3 A No.

4 Q Were you at any time asked to gather,
5 collect, or obtain documents relating to Madison
6 Guaranty, or Seth Ward, or the case between Seth Ward
7 and Madison Guaranty?

8 A I don't remember being asked to do that,
9 no. But that was one of the publicly discussed
10 issues at the time.

11 Q The law suit Ward vs. Madison?

12 A My recollection is that it was one of the
13 public -- Ward vs. Madison -- I don't remember the
14 lawsuit being an issue, but I remember Seth Ward
15 being somehow involved, although I should say I don't
16 remember specifically that that was the case in
17 January of 1994.

18 Q Did you contact anyone at the RTC or
19 at the FDIC about any of these matters
20 relating to Madison, Whitewater, or the Rose Law
21 Firm?

22 A Not to the best of my recollection, no.

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1 Q Do you have any knowledge of where this
2 document comes from?

3 A No.

4 It appears as if it may be a reading room
5 type document.

6 The RTC Reading Room makes these kind of
7 things available, but I don't know where -- I'm not
8 familiar -- I don't know the origin of the document or
9 what the purpose of it was, and I don't remember
10 being asked to gather it, or anything like that.

11 Q So you didn't go to the RTC Reading Room?

12 A No.

13 Q And you didn't talk to anybody from the
14 RTC to obtain this document?

15 A Not that I can remember.

16 Q And do you recall any discussions with
17 anyone else at the White House about this document?

18 A No.

19 Q Do you recall any discussions with anyone
20 at the White House about Seth Ward?

21 A No.

22 Q Do you recall any action you took

1 after -- relating to this document at all?

2 A No.

3 Q Do you recall doing any research into
4 prior Special Counsel investigations, or independent
5 counsel investigations?

6 A No.

7 Q Let me show you a document that has been
8 Bates Stamped 20707 and ask you if those are your
9 notes?

10 A That is not my handwriting.

11 Q Do you know whose handwriting this is?

12 A No.

13 Q Do you know how this got to your files?

14 A No.

15 Q Do you recall attending a meeting where
16 anything referred to on this page was discussed?
17 "Donald McKay," "No criminal activity," "precedence
18 for special prosecutor," "Clinton Governor campaign".

19 A Again, some of the issues on this page
20 were issues that were commonly discussed at the time
21 in the press. I did attend meetings where those
22 issues -- I should say, some of the notations on this

1 page such as "Clinton Governor campaign '84-'85"
2 refer to issues or incidents that were in the press
3 at the time. So I did attend meetings where these
4 were discussed, but I don't know what this was
5 about -- what meeting this was, or anything like that.

6 Q Also, 20705. Is that your handwriting?

7 A No.

8 Q You don't know how that document got into
9 your files?

10 A No.

11 Q S020713. Is that your handwriting?

12 A I believe that is my handwriting.

13 Q Do you recall preparing these notes?

14 A I don't remember preparing them.

15 Q Could you read them for me and tell me if
16 you recall, if it refreshes your recollection -- if you
17 know what the notes refer to, or if it refreshes your
18 recollection about the notes.

19 A I will say that, again while I don't
20 remember preparing the topics that it refers to, the
21 topics that were in the press at the time and were
22 the subject of op ed drafts and fact sheet drafts and

1 so on that I was working on.

2 Do you want me to still read it?

3 Q Yes. Why don't you just read it through.

4 A "Weak/special treatment use WSJ".

5 Q Do you have any recollection what that
6 refers to?

7 A I don't recall, but I recall that at the
8 time we were citing the Wall Street Journal as making
9 the case that Madison did not receive special
10 treatment.

11 Q What is the reference to "weak"?

12 A I don't know.

13 Q Was there a concern that the arguments
14 that the White House had were weak?

15 A I don't recall that at all, no.

16 Q I'm just trying to find any recollection.

17 A I mean, I'm happy to -- I don't remember
18 writing this, so I can't interpret what it means.

19 Q Okay.

20 A I just know "WSJ" means "Wall Street
21 Journal."

22 Q Okay.

1 A "April '85, Diversion/Campaign".

2 I don't know what that refers to.

3 David Hale was, again, a figure in this
4 matter who was in the press and was the subject of
5 press inquiries.

6 Q Did you have any discussions with anyone
7 at the White House relating to David Hale?

8 A Again in the preparation of these
9 documents, when we were drafting things, we would
10 say, you know, where's what we've written about David
11 Hale, or what should we say, or that sort of thing.
12 But I don't remember specifically anything beyond
13 that.

14 "Vince" and then there's an arrow
15 "→Bernie". I don't know what that refers to.
16 Obviously Vince Foster was in the White House
17 Counsel's Office and Bernie Nussbaum was the White
18 House Counsel.

19 "Why no tax loss".

20 Again, there was a question asked at the
21 time in the press of why the Clintons didn't take a
22 tax loss on their sale of the Whitewater shares, or

1 something like that.

2 Q I show you a document marked 20757 and
3 it's dated 1/10.

4 Are these your notes?

5 THE WITNESS: Would you mind if we take a
6 break for a minute?

7 MS. FISHER: Sure.

8 (Recess.)

9 MS. FISHER: Back on the record.

10 THE WITNESS: I'm sorry, could you repeat
11 the question?

12 BY MS. FISHER: (Resuming)

13 Q Sure. Are these your handwritten notes on
14 20757 dated January 10th?

15 A It's my handwriting.

16 Q Do you recall attending a meeting on
17 January 10th in the Counsel's office.

18 A I don't recall attending a meeting in
19 Counsel's office on January 10th. I just don't
20 remember it.

21 Q Why don't you read your notes for me?

22 A "Bernie will with Lindsey calm all the

1 Ds".

2 Q What does that refer to?

3 A I don't know specifically. "Ds" may refer
4 to "Democrats."

5 Q Would that be referring to Congress?

6 MR. TODD: Objection.

7 THE WITNESS: I don't know specifically
8 what that refers to.

9 MR. TODD: Just to complete my objection,
10 if he has a recollection he ought to give it to you.
11 If he doesn't, he doesn't. I mean, he can speculate
12 all day, but I assume you don't want him to
13 speculate.

14 MS. FISHER: I don't want the witness to
15 speculate. I do want to try to get a full
16 understanding of what this witness knows.

17 THE WITNESS: I don't remember taking
18 these notes, and I don't remember that entry.

19 BY MS. FISHER: (Resuming)

20 Q So do you have any recollection, or does
21 it refresh your recollection in any way, what this
22 entry "Bernie will with Lindsey calm all the Ds"

1 could possibly refer to?

2 A I don't have a recollection, no.

3 Q Could you read on.

4 A "Need a chronology of events →Neil. Have
5 to go to WNC to go over the documents. Sources:
6 Documents, Kendall First Family, Bruce Lindsey."

7 Again, I don't have any recollection of
8 this.

9 Q Okay. Keep going.

10 A "Each day clips. Neil, Bill, Cliff, Vicki
11 will do the response."

12 Q Who is "Bill"?

13 A I don't know for sure, but the other -- this
14 appears to be names of people in the White House
15 Counsel's Office.

16 Q So it would be Neil Eggleston, Bill
17 Kennedy, Cliff Sloan, and Vicki?

18 A Again, I don't know for sure. Vicki Radd
19 was an associate counsel in the White House Counsel's
20 Office.

21 MR. IVEY: What's the name?

22 THE WITNESS: R-A-D-D, Radd.

1 BY MS. FISHER: (Resuming)

2 Q Do you have an understanding that the
3 White House Counsel's Office was doing response to
4 press clips every day during this time period?

5 A I don't recall that being the case.

6 Q Do you have any knowledge of what this
7 entry may refer to, then?

8 A No.

9 As I say, at least as far as I was aware,
10 the very significant concern was in providing factual
11 information to the press and factual responses to
12 articles that appeared.

13 So beyond that, I don't remember
14 specifically what this refers to.

15 Q Keep reading.

16 A "Go back to stuff that's been written
17 since December."

18 "Special projects, Sheryl. WNC fees.
19 Cliff, independent counsel."

20 Q Do you have any idea what these "special
21 projects" may be referring to?

22 A Again, I think that these were issues

1 relating to -- these were issues that were prevalent at
2 the time in the press and in the discussion of this
3 issue.

4 Whether the -- how the President and the
5 First Lady would pay their fees to Williams &
6 Connally.

7 And, Kendall putting together a potential
8 public presentation.

9 Q I would like to show you a document, 20758
10 to 20759, which is a memo from Harold Ikes to
11 Whitewater Group, dated January 9th, 1994, and lists
12 several assignments.

13 "MW" is by a lot of these assignments.

14 Are you that "MW"?

15 A I believe I was.

16 Q Do you recall that you were assigned these
17 tasks?

18 A I recall working on some of them.

19 I don't recall all the assignments, but I
20 recall working on some of these.

21 Q Do you recall working on a synopsis of
22 Whitewater/Madison Guaranty matter?

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1 A No.

2 Q On 20759, No. 13, it says "Research issue
3 of whether then-Governor Clinton used political or
4 other pressure to see that Madison Guaranty be given
5 special consideration", and you are one of the people
6 that are assigned.

7 A Um-hmmm.

8 Q Do you recall working on that issue?

9 A Again, this is what we discussed before
10 relating to whether or not Madison Guaranty was
11 regulated in a lax manner, or whether it was
12 regulated in an appropriate manner.

13 Q And other than what you have testified to,
14 which is that you read the Schaffer memos that she
15 wrote in 1992, and the phone call that you made to
16 your friend, do you recall doing anything else to
17 research this issue?

18 A Again, I have a general memory that in
19 researching an issue I would look at press clips.
20 But other than that, no.

21 Q No. 14 says "Reference in 1/8 press that
22 Chris Wade, Arkansas realtor, has document re

1 Whitewater but won't release unless President Clinton
2 asks for them to be released," and you were assigned
3 to that.

4 What did you do to accomplish this task?

5 A I have no memory of this at all.

6 Q Did you contact Chris Wade?

7 A No.

8 Q Did you talk to President Clinton about

9 Chris Wade?

10 A No.

11 Q Did you talk to Bruce Lindsey about Chris

12 Wade?

13 A I don't remember talking to anyone about

14 Chris Wade.

15 Q Did you recall doing anything to try to

16 find these supposed documents, or to try to get

17 documents released from Chris Wade?

18 A I don't remember this at all.

19 Q No. 15, "Memo re failure to take deduction

20 on tax return for Whitewater losses." You were also

21 assigned this, too.

22 A Right.

1 Q Did you take any action to accomplish this
2 task?

3 A I don't remember anything on this at all,
4 either. And I know very little about taxes or tax
5 law. I don't remember anything about it.

6 Q Did you report to Mr. Ickes in any way?

7 A Well, Mr. Ickes was Deputy Chief of Staff
8 and therefore was in a supervisory position over all
9 of us. And he was the senior person who attended the
10 meetings that were held in the ward room.

11 Q Related to Whitewater?

12 A Yes.

13 Q Did Mr. Ickes run the meetings, generally?

14 A He would frequently bring issues to a
15 head. I don't remember whether he ran them or not,
16 but he was the senior person.

17 Q Did he divvy out the tasks generally like
18 you did in this memo? Was this a general --

19 A I don't remember whether he divvied out
20 the tasks, but in some instances -- I don't remember
21 specifically who divvied out the tasks, but he was
22 the senior person in the meetings and was asked to

1 coordinate this process, as far as I know.

2 Q If Mr. Ickes asked you to do something
3 like, for example, these assignments that he gave out
4 to people, is there any reason why you wouldn't do
5 that?

6 A No.

7 Q So you have no reason to believe that you
8 just on your own decided not to do what Mr. Ickes
9 asked you to do?

10 MR. TODD: Objection.

11 THE WITNESS: This entire process stops
12 about a day or two later.

13 BY MS. FISHER: (Resuming)

14 Q On the 12th?

15 A Yes, when the President asks the Attorney
16 General to appoint a Special Counsel. So at that
17 point, there were a number of assignments that were
18 not completed, or that I don't remember being
19 completed, and as I say, those lists -- I remember only
20 what I've testified to.

21 Q Because these assignments are assigned --
22 the assignment dates were assigned prior to this

1 meeting, apparently.

2 Okay, do you recall being aware of a
3 November 5th, 1993, meeting between David Kendall and
4 other members of the White House Counsel's Office
5 regarding Whitewater?

6 A No.

7 Q Do you remember anybody discussing that
8 meeting at the meetings you attended in early
9 January?

10 A No.

11 Q Do you recall anybody discussing whether
12 it was proper -- at any of the meetings that you
13 attended, whether it was proper for the White House
14 Counsel's Office to be working on tasks related to
15 Whitewater, Madison, research, things like that
16 related to Whitewater or Madison?

17 A No.

18 Q Do you recall any discussions about the
19 proper "division of labor" so to say between the
20 Clintons' private counsel and the White House
21 officials with regard to the Whitewater
22 investigation?

1 A No.

2 Q Do you recall any discussion at any time
3 about the fact that Mr. Eggleston had received
4 documents from the SBA relating to David Hale and
5 Capital Management Services?

6 A No.

7 Q Do you recall discussing the RTC Criminal
8 Referrals with anyone at the White House in early
9 January, 1994?

10 A No.

11 Q Do you recall the issue of the RTC
12 Referrals being discussed in any of the meetings that
13 you attended in early January, 1994?

14 A No.

15 Q When did you first learn that the
16 President and First Lady were named as witnesses in
17 an RTC Criminal Referral?

18 A I don't remember when I first learned. I
19 don't remember.

20 Q Were you present at any meetings relating
21 to RTC referrals, Madison Guaranty, or Whitewater
22 which were also attended by anyone from the RTC, or

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1 Treasury Department?

2 A No.

3 Q Do you recall attending a meeting on
4 January 4th in Mr. McLarty's office?

5 A Yes.

6 Q Do you recall David Gergen stating that an
7 independent counsel operates differently than a
8 criminal prosecutor because they take on a life of
9 their own?

10 A No.

11 Q And I believe you testified that you do
12 not recall Mrs. Clinton in any of the meetings in
13 early January of 1994?

14 A I was not present when Mrs. Clinton
15 entered any meeting.

16 Q Do you recall being informed that Mrs.
17 Clinton was opposed to the appointment of an
18 independent counsel or a special counsel?

19 A I don't remember being -- I don't remember
20 being told that specifically by any person.

21 Q Do you recall that being discussed at the
22 meetings?

1 A I remember, I have a general memory that
2 it was something that -- I generally remember that I
3 was aware of it. I don't remember how I was made
4 aware of it. It was in the press at the time and it
5 may have been a general discussion at the meetings,
6 but I don't specifically recall being told, or who
7 said it.

8 As I say, I don't remember specifically
9 being told it.

10 Q I want to direct your attention to notes,
11 and I recognize that these aren't your notes, but
12 just to try to refresh your recollection they are
13 notes of Mr. Gearan's and the document is 20574. It
14 is notes of a meeting of January 6th where they say
15 "Beverly Bassett letter/info BL/Waldman".

16 Do you recall any letter by Beverly
17 Bassett?

18 A No.

19 Q Do you recall any discussion about
20 affecting the scope of the independent prosecutor?

21 A No.

22 MR. TODD: Objection. I just don't know

1 what you mean by "scope." That's not important that
2 I know, but if you don't know you shouldn't answer
3 that. If you understand it, you should answer it.

4 THE WITNESS: Could you rephrase the
5 question, please?

6 BY MS. FISHER: (Resuming)

7 Q Sure.

8 I will show you some notes of Mr. Gearan
9 that are dated January 7th, 1994. Point 3 on the
10 memo from the meeting, which I believe that you
11 attended, the daily meetings:

12 "We cannot affect the scope of the
13 prosecutor."

14 Do you recall a discussion about affecting
15 the scope of the prosecutor in that context?

16 A First of all I don't recall attending a
17 meeting on that date, so I don't know if I attended
18 that meeting or not.

19 I don't recall any discussion about
20 affecting the scope of the prosecutor. I don't
21 remember a discussion like that.

22 Q Do you recall a discussion of the statute

1 of limitations in any of the meetings?

2 A I don't remember any discussion of that
3 issue at the time.

4 Q Do you recall a statute-of-limitations
5 issue coming up at a later time?

6 A I recall that Members of the Senate and
7 the House were raising it in a public way and it
8 coming up at that time, but I don't recall it coming
9 up during this period.

10 Q Do you recall discussions about potential
11 civil actions against the President and the First
12 Lady in relation to Whitewater and Madison?

13 A Not at this time, no.

14 Q Do you recall a statement by David Gergen
15 at one of the meetings that "all agree that Reno is
16 boxed once independent counsel starts"?

17 A No.

18 Q Generally do you recall things like that
19 being said?

20 A Could you rephrase that, please?

21 A Generally do you recall statements like
22 "all agree that Reno is boxed once independent

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1 counsel starts", which is a statement attributed to
2 David Gergen, do you generally recall statements like
3 that?

4 A I don't recall that statement, but I guess
5 I don't understand the question.

6 Q Do you recall any concerns expressed by
7 anyone at these meetings that once an independent
8 counsel is appointed Ms. Reno can have no further
9 involvement in the investigation?

10 A I don't remember specifically anybody
11 saying anything like that.

12 Q Generally?

13 A No.

14 Q Do you recall anyone at the White House
15 expressing frustration that Ms. Reno would not talk
16 to White House officials regarding the appointment of
17 an independent counsel?

18 MR. TODD: Objection to the word
19 "frustration".

20 BY MS. FISHER: (Resuming)

21 Q "Concern."

22 A No, I don't remember that issue being

1 discussed.

2 Q Do you recall a discussion by Mr. Ickes
3 that neither the President nor the staff could
4 convince the First Lady that an independent counsel
5 should be appointed?

6 A I don't remember him saying that, no.

7 Q Do you recall anyone saying that?

8 A No.

9 Q Do you recall being aware of that?

10 A To the extent that I was aware of the
11 views of the President and the First Lady, I was not
12 aware of that, no.

13 Q Do you recall a discussion of indictments
14 will be Betsy Wright?

15 A I recall that when Mr. Nussbaum was
16 saying that a special counsel could go off in
17 unexpected directions, that he mentioned, as I
18 said, associates of the President, and he mentioned
19 Betsy Wright.

20 Q Because Betsy Wright is an associate of
21 the President in that context?

22 A Yes.

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1 Q Were you aware that Betsy Wright was in
2 Arkansas looking for documents related to Whitewater
3 during this time period, January 1994?

4 A No.

5 Q Did you know Betsy Wright at the time?

6 A Yes.

7 Q Did you know what her prior position was?

8 A Yes.

9 Q Do you recall discussion of Department of
10 Justice officials by Mr. Ickes?

11 A No.

12 Q Who is "P. Griffin"?

13 A Pat Griffin was, at the time, Legislative
14 Director at the White House.

15 Q Who was Jordan? "Mister Jordan?" "Mrs.
16 Jordan"? Michael Jordan?

17 (Laughter.)

18 A There are a lot of Jordans.

19 Q Did you attend any meetings after January
20 12th, 1994 --

21 MR. TODD: Objection.

22 BY MS. FISHER: (Resuming)

1 Q -- relating to Whitewater or Madison?

2 A Yes, I did.

3 Q What do you recall about later meetings?

4 A Later in the spring when the White House
5 released a number of documents to the public, I was a
6 participant in meetings discussing the release of
7 those documents, and other matters relating to press
8 inquiries.

9 Q What documents were those?

10 A The files that were released to James
11 McDugal, for example --

12 MR. IVEY: That were?

13 THE WITNESS: -- released to James McDugal
14 at his request, and to the press.

15 BY MS. FISHER: (Resuming)

16 Q Whitewater-related files?

17 A Yes.

18 Q Were they documents that had been turned
19 over to the independent counsel?

20 A They had been turned over to the Justice
21 Department I believe.

22 Q In December of 1993?

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1 A I don't know what documents they were.

2 Q Did you attend any other meetings after
3 January 12th?

4 A Not to the best of my recollection.

5 Q Do you recall attending a meeting in early
6 1994 where basically David Kendall explained the
7 facts behind the Whitewater land deal?

8 A I don't remember attending a meeting like
9 that.

10 Q Do you recall anybody attending a meeting
11 where somebody basically explained the facts
12 regarding the Rose Law Firm issues?

13 A I don't remember attending anything like
14 that.

15 Q I want to show you a document -- and I'm
16 sorry I don't have a copy of these that were just
17 recently produced -- and ask you if you've ever seen a
18 document that looks like this? Or what is this?

19 My understanding is that you did not
20 produce this.

21 A That's correct.

22 MR. IVEY: That is S20717 --

1 BY MS. FISHER: (Resuming)

2 Q It is S20797 to S20800. It is dated
3 1/12/94 by someone's handwritten notes. And it is
4 titled "Should An Independent Counsel Be Requested By
5 The White House?"

6 A I don't remember ever seeing a document
7 like this.

8 Q Do you recall Mr. Kendall at any time
9 discussing the desirability of limiting the
10 investigation?

11 A I don't recall anything like that.

12 Q Do you recall anybody at the White House
13 discussing the desirability of limiting the
14 investigation?

15 A I don't recall anything like that.

16 Q Earlier we talked about a phone call from
17 the President that you were present at when the
18 President decided to appoint an independent counsel,
19 and I believe you said the letter from Mr. Nussbaum
20 was discussed, you believe?

21 A I don't remember exactly, but it may have
22 been discussed.

1 Q Is it your recollection that Mr. Nussbaum
2 or Mr. Kendall drafted that letter?

3 A I don't remember.

4 Q Do you recall any discussions about Mr.
5 Kendall preparing a letter, such a letter?

6 A No. But again, as I say, I don't remember
7 who prepared it.

8 Q Do you recall Mr. Kendall being involved
9 in any discussions relating to the appointment of an
10 independent counsel?

11 A Not that I'm aware of.

12 Not that I have any memory of.

13 Q So in any of your phone calls with David
14 Kendall you didn't discuss the appointment of an
15 independent counsel?

16 A No.

17 Q Your phone calls with Kendall were to
18 obtain facts to answer press inquiries and do your
19 talking points, et cetera?

20 A Yes.

21 Q Do you recall it being discussed at that
22 phone call or any other time on January 12th, 1994,

1 or prior to January 12th, 1994, the scope of the
2 request to ask for an independent counsel -- and I
3 understand that is not well phrased, so I will try
4 again. It is getting late. I apologize.

5 Do you recall discussing at any time what
6 the limits on the appointment of an independent
7 counsel would be?

8 A No.

9 Q A conditional request versus an
10 unconditional request, for example?

11 A No.

12 Q Do you recall receiving a memo prepared by
13 Neil Eggleston relating to the statute of limitations
14 issue? I don't think I have it with me, and I
15 apologize.

16 A I do not recall seeing a memo of that sort
17 from Mr. Eggleston. No.

18 Q Do you recall seeing any memos relating to
19 the statute of limitations' issue?

20 A I don't recall seeing any memos relating
21 to the statute of limitations issue. At -- No.

22 Q Do you recall seeing a memo prepared by

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1 Mr. Eggleston relating to the FDIC and RTC
2 investigation into the Rose Law Firm conflict of
3 interest?

4 A No.

5 THE WITNESS: Can I have a moment?

6 MS. FISHER: Absolutely.

7 (Discussion off the record.)

8 MS. FISHER: Oh, here it is.

9 (Discussion off the record.)

10 THE WITNESS: Would you repeat the
11 question?

12 THE REPORTER: "Q Do you recall seeing a
13 memo prepared by Mr. Eggleston relating to the FDIC
14 and RTC investigation into the Rose Law Firm conflict
15 of interest?"

16 BY MS. FISHER: (Resuming)

17 Q Do you want to add to your answer at all?

18 A No.

19 Q I want to show you a document that is
20 S07288 to S007313, and it is a memo from Harold Ickes
21 to the First Lady dated March 1, 1994, and it
22 attaches a memo dated February 28th, 1994, from Neil

1 Eggleston to Harold Ickes, and it relates to the Rose
2 Law Firm conflict of interest issue.

3 I would just ask if you are familiar with
4 that document, or whether you have ever seen that
5 document before.

6 A I don't remember ever seeing this
7 memorandum or this document.

8 Q Okay. Thanks.

9 I want to ask you now about other issues
10 in the Resolution just to see if you had any
11 involvement, and that's it.

12 Did you take any action or have any
13 discussions regarding the documents in Mr. Foster's
14 office?

15 A (Pause.)

16 Q And I should be clear: The documents that
17 were in Mr. Foster's office on the day that he died.

18 A (Pause.)

19 I did not take any actions, and I did not
20 participate in any discussions other than in a very
21 general way with being present at discussions held by
22 members of the White House press office and

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1 communications office staff who were dealing with
2 public questions at the time.

3 Q So other than members of the
4 communications department, you attended no meetings
5 with --

6 A I don't remember any.

7 Q -- people from the White House.

8 Okay.

9 A I don't remember attending any meetings.

10 Q Do you recall any discussions with anyone
11 in the White House, other than members of the press
12 office, with regard to the documents in Mr. Foster's
13 office?

14 A No -- well, no. Again, as I mentioned,
15 later in the spring when documents were being
16 released to the public that were Whitewater
17 documents, there was a discussion of whether or not
18 these were the documents that were in Mr. Foster's
19 office. But I don't remember whether they were or
20 not.

21 Q Were you involved in any of the
22 discussions relating to -- and I am sorry if I have

1 asked this before -- were you involved in any of the
2 discussions relating to the RTC criminal referral
3 relating to Madison Guaranty?

4 A No.

5 Q Were you involved in any discussions, or
6 did you take any action relating to the Department of
7 Justice's handling of the RTC's criminal referrals
8 relating to Madison?

9 A Again, later in the spring when there were
10 press accounts of statements by Members of Congress
11 or Jean Lewis, I participated in discussions of those
12 press accounts, but nothing other than that.

13 Q Other than the meetings we have discussed
14 here today, did you attend any other meetings related
15 to Whitewater Development Corporation or Madison
16 Guaranty that we have not discussed?

17 You've told me about the meetings in early
18 January.

19 A (Pause.)

20 Again as I said, later in the spring when
21 there was a process of releasing documents to the
22 public, and again dealing with press inquiries, I

1 attended meetings during that time.

2 Q Post-March 1994?

3 A Yes.

4 Q Prior to March of 1994, did you have any
5 discussions with members of the White House regarding
6 Capital Management Services or David Hale?

7 A No.

8 Q Did you attend any meetings where Capital
9 Management Services or David Hale was discussed?

10 A No.

11 Again, only insofar as it was for the
12 preparation of these talking points, and op eds, and
13 that sort of thing.

14 Q Did you attend any meetings or have any
15 involvement in issues relating to the bond
16 underwriting contracts between ADFA and Lassiter?

17 THE WITNESS: Can I talk to my --

18 MS. FISHER: Yes.

19 (Discussion off the record.)

20 MS. FISHER: Back on the record.

21 While we were off the record, counsel
22 discussed the answer to the last question and it was

1 agreed between counsel that Mr. Waldman could testify
2 as to any meetings that he had with regard to ADFA to
3 the extent that they occurred after March 4th, 1994.
4 He will tell us when the meetings occurred, to the
5 best of his recollection, and who it was with, and
6 his counsel will determine from the White House
7 whether there is a claim of privilege with regard to
8 that meeting.

9 BY MS. FISHER: (Resuming)

10 Q So did you have any meetings prior, I
11 guess we should ask, any meetings prior to March 4th,
12 1994, in relation to ADFA?

13 A Not that I can remember.

14 Q Or any involvement in that issue
15 whatsoever?

16 A No.

17 Q And post-March 1994, if you could just
18 state for the record what we just discussed?

19 A Post-March 1994 I attended a meeting where
20 other attendees that I recall were John Podesta and
21 Jane Sherburne where the subject of ADFA was
22 discussed.

1 Q Do you recall approximately when that
2 meeting occurred?

3 A In the spring.

4 Q Of 1994?

5 A Yes.

6 Q Any meetings in 1995?

7 A No, not that I can remember.

8 Q Do you recall any discussions with anyone
9 at the White House regarding the Perry County Bank?

10 A No.

11 (Discussion off the record.)

12 THE WITNESS: Let me reframe my answer.

13 I don't remember discussions of that sort.

14 BY MS. FISHER: (Resuming)

15 Q Do you recall discussions about the
16 financing of the 1990 Clinton Gubernatorial Campaign?

17 A Again, in the spring of 1994 in response
18 to press inquiries there were discussions with
19 Podesta.

20 Q What do you recall about your discussions
21 with Mr. Podesta?

22 Was Mr. Podesta in the press at that time?

1 What was his job?

2 A He was the staff secretary.

3 Q What do you recall about your discussions
4 with Mr. Podesta about Perry County, or the financing
5 of the 1990 Gubernatorial Campaign?

6 A Wait a minute. Let me --

7 (Pause.)

8 -- if I could revise my answer:

9 I don't remember discussions with Mister --

10 I don't have a memory of discussing the 1990 campaign
11 with Mr. Podesta. I was confusing the earlier
12 Gubernatorial campaigns.

13 Q The 1985?

14 A I believe that's correct. I don't
15 remember discussing it with Mr. Podesta.

16 Q What do you recall discussing about the
17 1985 fund raiser with Mr. Podesta?

18 A I remember that there were press inquiries
19 at the time asking many of the same questions that
20 were asked in early 1994 about who gave what money,
21 and so on, and Mr. Podesta was trying to provide
22 answers that were accurate to the press. And that's

1 what the discussions were.

2 Q When did you first become aware of the
3 existence of billing records relating to the Rose Law
4 Firm's work for Madison Guaranty?

5 A I first became aware when I read in the
6 press about the billing records.

7 Q In January of 1996?

8 A Whenever that was.

9 Q So you never saw the billing records prior
10 to that time?

11 A No.

12 Q Correct?

13 A That's correct.

14 Q I show you a draft op ed piece, Bates No.
15 20740 by Bruce Lindsey.

16 Did you draft this?

17 A I recall working on a draft op ed piece
18 for Bruce Lindsey, so I believe I did work on
19 drafting this.

20 Q And what has been marked as Waldman
21 Deposition Exhibit No. 1 is another version of that
22 draft, which is marked "Sunday AM draft".

1 A Yes.

2 Q And your counsel has quite generously
3 pointed out that the difference between the two
4 documents is that one says, the Sunday AM draft says:
5 Because of the operation of the tax laws, taking the
6 loss would permit a deduction of only about \$1200.

7 And the Tuesday AM draft says the tax
8 benefit would only be -- well, actually the Tuesday
9 draft says: Because of the operations of the tax
10 loss, the tax benefit would be only \$5100.

11 Do you recall a discussion about the
12 change in that?

13 A I recall that the issue of the tax loss
14 was one in which we were -- in which those of us who
15 were trying to come up with accurate facts to present
16 to the public were not proving particular successful
17 in coming up with a conclusory answer.

18 So I don't remember the specific
19 discussions as it relates to this op ed, but this was
20 one of the questions that was asked by the press, and
21 at the time we were trying to get an accurate answer.

22 Q And you were having problems getting an

1 accurate answer?

2 A We did not -- I do not recall the process by
3 which this was done. I just remember the first
4 version was wrong in some way, and the second version
5 was a recalculation.

6 MR. IVEY: I'm sorry? What was the last
7 part of that?

8 THE WITNESS: That I did not know what the
9 answer was to this, and therefore it was difficult to
10 draft an accurate answer on this question.

11 BY MS. FISHER: (Resuming)

12 Q Do you recall learning at some point that
13 the so-called Lyons Report had inaccuracies contained
14 in it?

15 A I don't recall learning that at this time,
16 no. I recall discussions of it later, but I don't
17 recall learning that it had inaccuracies.

18 Q So for example the 20742, when you state
19 "the President and Mrs. Clinton did in fact lose at
20 least \$69,000 in the ill-fated real estate deal," as
21 of the time you drafted this op ed you weren't aware
22 that in fact that \$69,000 was an incorrect figure?

1 A I don't --

2 MR. TODD: Objection.

3 THE WITNESS: I don't know whether it was
4 a correct or an incorrect figure.

5 BY MS. FISHER: (Resuming)

6 Q And your concern was basically trying to
7 get someone to tell you what the accurate figure was?

8 A Yes.

9 Q There is a string of editorials and other
10 Congressional statements marked as Bates Nos. S20714
11 to Bates No. S20739.

12 Is this something that you prepared?

13 A I don't remember preparing it. And it's
14 not the sort of thing I would have prepared.

15 I know that one of them says it was
16 prepared by the Office of Communication Research.

17 Q Did you do any research at this time into
18 what Members of Congress were stating about Madison,
19 Whitewater, or the independent counsel?

20 A I did not do research into what Members of
21 Congress were stating, no.

22 Q Were you assigned any tasks relating to

160

1 Members of Congress relating to Madison, Whitewater,
2 or Congressional inquiry?

3 A I don't understand the question; sorry.

4 Q Were you asked at any time to do any, I'm
5 trying to avoid the word "research," but I am having
6 a hard time trying to rephrase it.

7 Were you ever asked to take any action or
8 to perform any activities relating to Congressional
9 inquiry into Madison, Whitewater, Rose Law Firm, et
10 cetera?

11 MR. TODD: If you understand it. I'm
12 afraid I don't.

13 BY MS. FISHER: (Resuming)

14 Q Were you ever asked to take any action
15 with regard to Congressman Leach and the statements
16 he was making, to compile the statements, or to do
17 some research into --

18 A No. I was never asked to conduct
19 research, or compile statements on Members of
20 Congress.

21 Q Did you ever ask anyone to do that?

22 A I don't remember asking anyone to do

1 that.

2 Q So to the best of your recollection, you
3 were never asked, nor did you ask anyone to compile
4 any information relating to Members of Congress that
5 were looking into Madison, Whitewater, Rose Law Firm,
6 or the possibility of adopting an independent
7 counsel?

8 A Again I guess I'd have to ask you to
9 rephrase -- I don't understand the question.

10 MS. FISHER: Could you read back the
11 question?

12 THE REPORTER: "Q So to the best of your
13 recollection, you were never asked, nor did you ask
14 anyone to compile any information relating to Members
15 of Congress that were looking into Madison,
16 Whitewater, Rose Law Firm, or the possibility of
17 adopting an independent counsel?"

18 THE WITNESS: May I speak to counsel?

19 MS. FISHER: Sure.

20 I can try to rephrase it again, if it
21 could help?

22 MR. TODD: Part of it is that the "that" I

1 think refers to a person who, and it makes it unclear
2 to me what the question is.

3 BY MS. FISHER: (Resuming)

4 Q Okay. Did you compile any information on
5 any Congressmen or Senators who had either made
6 statements about Whitewater, Madison, or the Rose Law
7 Firm, or the possibility of appointing an independent
8 counsel, or had made statements about conducting a
9 Congressional inquiry into those matters?

10 A I'm still not sure I totally understand.
11 We -- a big part of what we were doing was responding
12 to statements made by Members of Congress as well as
13 the press on this matter.

14 Q Did you compile any information about the
15 people making the statements? Chairman Leach?
16 Chairman D'Amato?

17 A I see what you're saying.

18 THE WITNESS: Can I talk to my --

19 MR. TODD: And I have an objection to
20 that. What I believe is missing is, because they had
21 made statements about those subjects, I believe is
22 your question? Because he could have compiled

1 information about statements of persons you have
2 described, but not because of any statement they
3 made, or any acts they had done related to those
4 sections.

5 MS. FISHER: Well if it has anything
6 relating to any of these matters is what I want to
7 know. I mean, it could have been triggered by the
8 fact that he is chairman of the House Banking
9 Committee, or it could have been triggered by the
10 fact that he made a statement about the statute of
11 limitations, and I would like to know either one.

12 MR. TODD: My concern is, if he compiled
13 information to respond to let's say Congressman Leach
14 because he commented on the woodsy owl statute --

15 MS. FISHER: I am not interested in that.

16 MR. TODD: I understand you are not
17 interested in that, but Congressman Leach at the same
18 time, if he had been commenting on these other
19 matters but he had compiled response to the woodsy
20 owl comment by Congressman Leach, that would fall
21 within your question, and that is my concern.

22 MS. FISHER: Why don't you find out to see

1 if we can avoid a problem.

2 (Discussion off the record.)

3 MS. FISHER: After a discussion off the
4 record, it has been determined that the witness does
5 not have to answer the last question.

6 I have no further questions, and I
7 appreciate you coming and staying here for five hours
8 and being so flexible.

9 EXAMINATION

10 BY MR. IVEY:

11 Q Good evening, Mr. Waldman. I have a
12 couple of follow-up questions I wanted to go through
13 with you with respect to your questions and answers
14 that were provided earlier.

15 You were asked a number of questions about
16 documents and the document production in response to,
17 I assume, requests from the Senate for these
18 documents with respect to the Senate's investigation.

19 Now I take it that when you first learned
20 about the need to produce documents you did a search
21 of documents in files in your office?

22 A Yes.

1 Q And you said that was in 1995.

2 Can you recall anything more specific
3 about when it was? Was it spring, fall, summer?

4 A It was as soon as the request came in from
5 the Committee and was circulated. I don't recall
6 when that was. I have a general recollection it was
7 in the fall, but it was whenever that was. And I
8 acted on it immediately.

9 Q And you looked through all your files?
10 You looked through your computer hardware?

11 A I looked through my files. I looked
12 through my bookshelf, and I looked through my
13 computer hard drive. And I produced a number of
14 documents and notes as a result of that.

15 Q You testified earlier that you have
16 produced 25 documents, I think you said, and I wanted
17 to know if that was 25 pages of documents, or 25
18 separate types of documents?

19 A Again, 25 is an estimate, but there were
20 25 separate documents.

21 Q So each document could have had a number
22 of different pages?

1 A Yes.

2 Q In addition, I produced for the White
3 House Counsel's Office two thick three-ring binders
4 of press clippings which I was informed did not -- was
5 not responsive.

6 MS. FISHER: And in all fairness to the
7 White House, I should say that we agreed not to have
8 the White House produce press clippings unless it had
9 hand-written notes on them.

10 BY MR. IVEY: (Resuming)

11 Q Now this group of documents that you
12 missed in your first search, you said that they were
13 found by an intern who was helping you move to a new
14 office?

15 A The box in which they were was found by an
16 intern who was helping pack my office for a move to a
17 new office. And he -- he did a listing of what was in
18 the box, and I saw that.

19 Q Can you recall if you had looked through
20 that box when you did your initial search?

21 A I do not remember looking through that box
22 or knowing that that box was there, or that it

1 contained files that were potentially relevant.

2 Q I take it that if you had seen these
3 documents during your initial search, you would have
4 turned them over to the White House Counsel's Office?

5 A I would have turned them over immediately,
6 as I did as soon as I saw them.

7 Q And you mentioned also that when the
8 intern brought this, the intern put the box together?
9 He packed some of these items for you, and it was
10 labeled "WWDC."

11 A That was one of the entries in the log in
12 the box.

13 Q It was an entry on the log.
14 Had you labeled this file "WWDC"?

15 A Yes, I believe -- well, I believe that some
16 of the files -- I believe that some of the files were
17 labeled WWDC.

18 Q And were they in accordion files?

19 A Yes.

20 Q And the accordion files are inside a box?

21 A The accordion file was with other files
22 inside a box.

1 Q Now you also asked about after -- whether
2 you had gone back to search for additional documents.
3 I take it your answer was that you had not, but I
4 take it that was because you thought you produced all
5 the documents that were responsive to the request.

6 A Yes, I thought I had produced all the
7 documents that I had.

8 Q You testified earlier that at one of these
9 January meetings, January of 1994, there was a
10 comment about appointment of an independent counsel
11 being potentially hurtful to associates of the
12 President, and I wanted to follow up with you on
13 that.

14 I take it from your previous testimony
15 that you meant it could be hurtful to people who were
16 innocent of any wrongdoing?

17 A I don't know what Mr. Nussbaum meant by
18 his comment.

19 Q So you were just recounting what he said?

20 A Yes.

21 Q Did you get the sense from Mr. Nussbaum's
22 comments that he was suggesting there should be any

1 type of coverup of people who may have committed any
2 wrongdoing?

3 A I don't recall Mr. Nussbaum saying
4 anything that indicated he thought there should be a
5 coverup of wrongdoing.

6 Q Do you recall Mr. Nussbaum saying anything
7 about him having evidence of any wrongdoing within
8 the White House?

9 A No. Absolutely not.

10 Q I take it that's something that would have
11 stuck with your memory?

12 A I would have remembered that.

13 Q You were asked a number of questions about
14 Beverly Bassett Schaffer and I wanted to follow up on
15 some of those.

16 First of all, with respect to the
17 information that you received regarding Beverly
18 Bassett Schaffer, you mentioned two memoranda that
19 she had written to Geoffrey Girth of The New York
20 Times that you'd received from Bruce Lindsey?

21 A Yes, I received two memoranda from him.

22 Q And I've got documents Bates Stamped

1 S20598 going through S20615. Within those documents
2 there are two memoranda from Beverly Bassett Schaffer
3 to Geoffrey Girth. The first one is dated February
4 25th, 1992. The second one is dated February 28th,
5 1992.

6 I wanted to ask you to take a look at
7 those.

8 A (Witness peruses documents.)

9 Yes.

10 Q Do you recall if those are the memoranda
11 that Mr. Lindsey gave you with respect to this issue?

12 A I believe that these are the memoranda.

13 Q I know you haven't leafed through ever
14 page, but your general sense is that these are the
15 memoranda?

16 A To the best of my recollection, these are
17 the memoranda.

18 Q Now did you also have a copy of a letter
19 from Beverly Bassett Schaffer, S20591 and
20 S20592, written on December 10th, 1987, to
21 Stuart Root, Federal Savings & Loan Insurance
22 Corporation?

1 A Again, this was found in my files. I
2 don't remember receiving this, but -- I don't believe
3 I remember receiving this, but these were in my
4 files.

5 Q At the time that there was discussion
6 about you or someone perhaps going to talk to Ms.
7 Bassett Schaffer about her handling of Madison, these
8 two memoranda had already been written.

9 Is that correct?

10 These were written in February of 1992 and
11 you were having these conversations in January of
12 1994?

13 A As far as I know, those memoranda had been
14 given to The New York Times.

15 Q And you said she had already made some
16 public statements with respect to Madison before
17 these meetings began at the White House?

18 A That was -- that is my recollection of my
19 understanding.

20 When I say that, I mean in part her
21 comments to The New York Times at the time.

22 Q So by you going down, or anyone from the

1 White House for that matter, going down to talk to
2 Ms. Bassett Schaffer, I take it there would not have
3 been much purpose in trying to get her to change her
4 views since they were already memorialized and
5 publicized?

6 Is that correct?

7 A I can only speak to what I believed my
8 intention would be if I were to in fact go, which was
9 I would never have thought of trying to change her
10 statement.

11 Our interest was in getting accurate
12 information out to the press and public about this
13 matter, and that was all I would have
14 participated in or contemplated participating in in
15 that context.

16 Q And you never went to talk to Ms.
17 Schaffer, in any event?

18 A The idea was dropped very quickly.

19 Q To the best of your knowledge, no one else
20 went to talk to Ms. Schaffer, either?

21 A I don't know of anybody who did.

22 Q I mean from the White House.

1 A I don't know of anybody who did.

2 Q Now I guess you were questioned about the
3 propriety of someone talking to Ms. Bassett
4 Schaffer. Do you know if there was a Grand Jury
5 investigation being conducted by the Justice
6 Department or anyone else for that matter regarding
7 Ms. Bassett Schaffer's handling of the Madison
8 Guaranty Savings & Loan?

9 A I --

10 (Pause.)

11 I do not know whether or not her handling
12 of Madison Guaranty is the subject of a grand jury
13 investigation.

14 Q I mean at the time of the meetings in
15 January of 1994, I mean was there any indication that
16 you were aware of that there was a grand jury
17 investigation going on that involved Beverly
18 Bassett Schaffer and her handling of Madison
19 Guaranty?

20 A I don't remember being specifically -- I
21 don't remember being aware in any concrete way that
22 she or her actions were the subject of a grand jury

1 investigation or any discussion of that.

2 As I say, when an objection was raised to
3 this idea, in part on the grounds that it would be or
4 would appear to be improper, or at least that is what
5 I recall one of the grounds being, the idea was
6 dropped.

7 Q Are you aware of statements made by other
8 regulators of the securities industry in Arkansas
9 that they thought that Ms. Bassett Schaffer had
10 handled herself and handled the Madison issue
11 properly?

12 A No.

13 Q Are you aware that in this letter that
14 came out of your files dated December 10th, 1987,
15 she raised the issue of placing Madison in
16 receivership with the Federal Savings & Loan
17 Insurance Corporation, which would have had to
18 pay off deposit insurance in the event that had
19 occurred?

20 A I recall from the time that -- and from
21 looking at these documents now -- that both her
22 documents and press accounts report that she, acting

1 with federal regulators, was responsible for putting
2 Madison into receivership.

3 Q Did you know that she had asked well in
4 advance of the federal regulators actually placing
5 Madison in receivership?

6 A I learned that in the course of writing
7 these materials and talking points, and it is
8 reflected in the drafts of the materials that were
9 found in my files.

10 Q Now I have a question on the Grand Jury
11 investigation -- potential Grand Jury investigation
12 with respect to Beverly Bassett Schaffer.

13 Do you know that, as a general practice,
14 attorneys frequently speak to witnesses who may be
15 potential witnesses for grand juries?

16 A I don't know that.

17 Q You don't know one way or the other?

18 A I don't have direct knowledge of that.

19 Q Okay.

20 (Discussion off the record.)

21 THE WITNESS: Again, as soon as -- as it
22 relates to that issue, as soon as an objection was

1 raised to the idea of my going to Arkansas, the idea
2 was dropped.

3 BY MR. IVEY: (Resuming)

4 Q You were asked by a Q&A on Whitewater that
5 you said you pulled from your hard drive but that you
6 didn't recall writing, do you have E-Mail in the
7 White House on which you can mail documents to and
8 from?

9 A Yes.

10 Q And I take it you don't know if that
11 document was E-mailed to you?

12 A I don't know which document you're
13 specifically referring to.

14 Q I'm sorry. Let me pull it out.

15 (Handing document to the witness.)

16 S20617, 618, and 619. These are the
17 documents you were asked about.

18 A Yes.

19 As I say, I don't recall writing these and
20 I don't recall the circumstances of their being
21 written, so I can't answer beyond that.

22 MR. IVEY: That's all for me.

1 FURTHER EXAMINATION

2 BY MS. FISHER:

3 Q I just want to follow up on one thing.

4 This idea that Mr. Ivey raised regarding
5 whether you had knowledge that there was a grand jury
6 investigation that would in any way relate to Ms.
7 Schaffer at the time, you were aware, were you not,
8 in January of 1994, that there was a Department of
9 Justice investigation into the Madison Guaranty S&L
10 matter?

11 A Yes.

12 Q And you were aware that there was talk
13 about whether there would be an independent counsel
14 appointed to relate to Madison Guaranty and
15 Whitewater matters; correct?

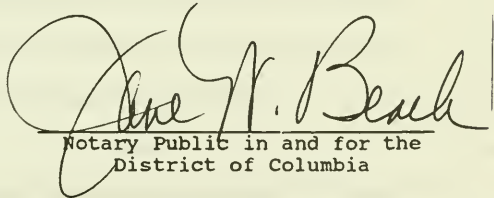
16 A Yes.

17 MS. FISHER: That's all I have.

18 (Whereupon, at 10:10 p.m., Wednesday,
19 February 21, 1996, the deposition of Michael Waldman
20 was adjourned.)

21 -----
22 MICHAEL ALAN WALDMAN

I, JANE W. BEACH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires NOVEMBER 14, 1996

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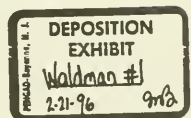
DRAFT OP-ED BY BRUCE LINDSEY (?) SUN. AM DRAFT

Mark Twain once said, "A lie gets halfway around the world before the truth has time to put on its boots." Today, political foes are hurling unsubstantiated charges at President Clinton and Mrs. Clinton relating to their investment in Whitewater Development, a failed real estate company in Arkansas. But overwrought allegations are not facts. And a review of the facts make it clear that there are simply no credible allegations of wrongdoing by the Clintons.

That is why it would be utterly inappropriate to appoint an independent counsel to investigate the President. Under the Independent Counsel statute (killed, ironically, by the same Republicans who are now clamoring for such a counsel), this step should be taken when there is a specific allegation from a credible source that a senior official violated federal criminal law. None of those elements is present here. Moreover, the Justice Department has already taken unusual steps to ensure the independence of the ongoing investigation of Madison Guaranty S&L. A former Republican-appointed U.S. Attorney, Donald Mackay of Illinois, was brought in to handle the case after the Arkansas U.S. Attorney recused herself. The Clintons are voluntarily turning over all relevant documents and have pledged to continue to cooperate fully.

A look at the most widely-repeated allegations indicates clearly that there is much less to Whitewater than meets the eye.

Did then-Governor Clinton use political pressure to see that Madison Guaranty



S&L, owned by his business partner James McDougal, would be treated with special leniency?

This charge is the heart of the Republican argument -- and it is simply without foundation. There is not a single factual allegation that the President took any steps whatever to ease regulatory pressure on Madison. As the Wall Street Journal, hardly the President's most ardent ally, concluded editorially, "there is no evidence that Governor Clinton urged [regulators] to go easy."

Beverly Bassett was the state securities commissioner who regulated thrifts for the State of Arkansas, along with federal regulators from the Federal Home Loan Bank Board and Federal Savings and Loan Insurance Corporation. Only a year and a half after Bassett took office, McDougal was removed from Madison Guaranty S&L at the behest of both state and federal regulators. Indeed, in 1987, Bassett wrote to her federal counterparts, asking them to shut down Madison Guaranty (and two other thrifts). The federal regulators refused, citing budget constraints, and the thrift remained open until 1989.

To be sure, in retrospect the regulation of savings and loans all across America was flawed during the 1980s, and Arkansas did not escape these national problems. Too many thrifts failed, and too much taxpayer money was lost. But Bassett was a diligent regulator, seeking to cope with a bad situation. To suggest that political pressure prompted her to treat Madison with any particular deference is absurd and not

supported by any evidence.

The Clintons claim that they lost money in their Whitewater investment. If so, why did they not claim the loss on their tax returns?

The President and Mrs. Clinton did, in fact, lose [at least \$69,000] in the ill-fated real estate deal -- a fact confirmed by an independent accounting firm, Patten, McCarthy, and Associates, which examined Whitewater-related documents during the campaign.

When they filed their 1992 tax returns last year, the Clintons chose not to take a tax deduction on the loss. Why? Because of the operation of the tax laws, taking the loss would permit a deduction of only about \$1200. They concluded that the such a small potential tax benefit would not be worth the accounting fees, and headaches associated with taking the loss. The Clintons' entirely reasonable decision to refrain from taking a deduction to which they were entitled, on a tax return they knew would be made public, should not be used against them.

Did the White House "cover up" in the wake of Vince Foster's suicide last year? In particular, were files related to Whitewater improperly removed from Mr. Foster's office after his death?

No files were removed from Vince Foster's office without first being identified to law enforcement officials. [Two days] after Foster's suicide, White House Counsel

Bernard Nussbaum sorted the contents of Foster's office, in the presence of law enforcement officers. He identified the Clintons' personal files, including a Whitewater file, to the investigators. They were then sent to the Clintons' personal lawyer. No law enforcement official requested those files from Mr. Nussbaum or anyone else. In December, following erroneous press reports that the files were missing, the Clintons' voluntarily agreed to turn over the files relating to Whitewater to the Justice Department. Foster's suicide had nothing to do with Whitewater. The matter is nowhere mentioned in the note Foster wrote prior to his death. It is ghoulish for political partisans to use the tragedy of Foster's death to hype interest in these matters.

Did Madison funnel illegal campaign contributions to Governor Clinton in 1985?

James McDougal hosted a fundraiser to help retire a 1984 campaign debt in 1985. At this event, approximately \$25,000 was raised. Every single check received at the fundraiser was proper on its face -- from an individual, within legal limits. Only three checks were Madison cashiers checks. Now, one individual whose name was on a cashier's check, Ken Peacock, says that he was unaware of the contribution. That came as a surprise to the Clintons, who had no reason whatsoever to think the check was not Peacock's. President Clinton has no knowledge whatsoever of any illegal contributions.

Did then-Governor Clinton urge David Hale to make an SBA-backed loan that eventually may have benefitted Whitewater?

David Hale is under indictment for defrauding and making false statements to the federal government, acts that allegedly took place in 1988. As Hale sought to plea bargain last year, he began charging that he had been urged to make improper loans by several Arkansas business and political figures. Suddenly, he suddenly declared that in the mid-1980s, then-Governor Clinton had urged him to make a loan to Susan McDougal, Jim McDougal's wife. Both the President and McDougal deny that any such conversation occurred. (McDougal says he used part of the loan to buy land; he briefly put the land in the name of Whitewater before moving it to another of his companies. He acknowledges that he never told the Clintons about the deal.) Despite Hale's imaginative allegations, the prosecutors chose to indict him.

The Clintons have forthrightly cooperated with the thorough current Justice Department investigation of Madison S&L, and will continue to do so. If Whitewater involved credible allegations, it would merit the hyperventilating attention it has received. But an empty charge is not a fact. Partisan opponents should not be permitted to use this illusory issue to divert attention from the real concerns of the American people.

**DEPOSITION OF DANNY RAY LASATER
IN RE: S. RES. 120**

THURSDAY, FEBRUARY 22, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of DANNY RAY LASATER, called for examination pursuant to notice of deposition, at 10:10 a.m. in Room 534 of the Dirksen Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

ROBERT J. GIUFFRA, JR., Esq.

Majority Chief Counsel

MICHAEL P. O'CALLAGHAN, Esq.

Majority Associate Special Counsel

LANCE COLE, Esq.

Minority Deputy Special Counsel

MITCHELL FEUER, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

RICHARD A. FEINSTEIN, Esq.

McKenna & Cuneo

1575 Eye Street, NW

Washington, DC

On behalf of the Deponent.

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PROCEEDINGS

MR. O'CALLAGHAN: Good morning. My name is Michael O'Callaghan. I'm the associate special counsel for the Special Committee. To my left is Lance Cole and Mitchell Feuer who are both with the Minority.

This deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Inc., underwriting contracts between Lasater & Company and the Arkansas Development Finance Authority and other related matters.

This deposition is in advance of public hearings later this month, possibly next week, and there is a chance you'll be asked to testify at those hearings.

I'm going to ask you a series of questions today, I'm going to ask you to testify under oath. If you don't understand a question please let either

4

me or Minority counsel know. We'll be happy to rephrase the question for you. Also if you need a break at any time let us know. We'll be happy to accommodate you.

The stenographer is preparing a record of questions and answers. This deposition will be treated committee confidential until the commencement of hearings. Prior to the hearings, you'll be provided with a copy of your transcript and errata sheet. If you want to make any corrections or note any corrections you can do that. And also you'll have it in advance of your hearings or to prepare for the hearings.

You may be represented by counsel today. Are you represented by counsel?

MR. LASATER: Yes.

MR. O'CALLAGHAN: Counsel, could you please state your name and name of your firm.

MR. FEINSTEIN: Richard Feinstein. I'm with McKenna & Cuneo here in Washington.

MR. O'CALLAGHAN: Objections to the form of questions today will be noted for the record.

1 Counsel may object on grounds of privilege or
2 relevance. And the Committee Chairman may rule on
3 objections where the witness refuses to answer a
4 question.

5 Could you please swear the witness.
6 Whereupon,

7 DANNY RAY LASATER
8 was called as a witness and, having first been duly
9 sworn, was examined and testified as follows:

10 MR. COLE: Before we proceed,
11 Mr. O'Callaghan, it's my understanding that at some
12 point later this morning Mr. Giuffra will be joining
13 us.

14 MR. O'CALLAGHAN: That's right, yes.

15 MR. COLE: I've discussed that with
16 Mr. Giuffra. Our normal procedure, Mr. Lasater, is
17 that one attorney conducts a deposition for the
18 Majority and then one attorney conducts the
19 deposition for the Minority. The idea being that
20 it's not fair to the witness to be questioned by two
21 lawyers at once. I've agreed with Mr. Giuffra as
22 long as you and your counsel don't object that

1 Mr. O'Callaghan will conduct the deposition for a
2 time this morning and then Mr. Giuffra, who is
3 currently in a hearing, may come in and pick up, and
4 I've agreed to that with the understanding that only
5 one lawyer will be asking you questions at one time.

6 In other words, Mr. Giuffra may step in and
7 substitute for Mr. O'Callaghan, but they won't be
8 both asking you questions at the same time. I would
9 object to that.

10 MR. FEINSTEIN: I would just add that I
11 assume that there won't be duplication of the
12 questioning, that you're going to be covering
13 different areas. If we wind up replowing ground
14 we've already covered obviously I'm going to reserve
15 the right to object to that. But assuming that
16 you're covering different areas, I have no objection.

17 MR. COLE: That is a good point. That is
18 my understanding from Mr. Giuffra there will not be
19 duplication.

20 MR. O'CALLAGHAN: We'll endeavor to avoid
21 any duplication. We have no intention to duplicate
22 anything on the record. It doesn't serve anybody's

1 purpose.

2 EXAMINATION

3 BY MR. O'CALLAGHAN:

4 Q Could you please state and spell your full
5 name for the record.

6 A My name on my birth certificate is Danny,
7 D-a-n-n-y, Ray, R-a-y, Lasater, L-a-s-a-t-e-r.

8 Q Have you spoken to anyone other than your
9 counsel prior to this deposition about the
10 deposition?

11 A That I was going to be here for a
12 deposition?

13 Q Yes.

14 A Yes. I mentioned it to my administrative
15 assistant, Jean Williams. My wife, my children, some
16 employees that work for me at the saw mill. My
17 attorney here, attorney in Little Rock, Michael Lax.
18 Attorney friend of mine, Ken Shemin. A business
19 associate Gerald Hanahs. Some people from my church,
20 Ken Shemin, Bob Snyder -- I saw him yesterday morning
21 at our church. We have men's fraternity on Wednesday
22 morning and Bob was there and I knew he was coming

1 and I asked him if he'd been here.

2 He said that he had and he asked me if I
3 had and I said I'm leaving today. We have a small
4 group within our church. I've discussed it with
5 those people. That's Jimmy Alessi, Cal Arnold, Bob
6 Barker.

7 I mentioned it to Dennis Raney, who is in
8 our church. He is a -- the director of Family Life
9 Ministries out of Little Rock and a friend. And I'm
10 sure there's been some other people, but it's going
11 to be those type people. Our community group at
12 church, I've mentioned it to the community group at
13 church.

14 That's Mr. and Mrs. Stan McLellan,
15 M-c-L-e-l-l-a-n. Mr. and Mrs. Jimmy Alessi. Mr. and
16 Mrs. Blair Wright. Loretta Phillips. Rita O'Kelly.
17 Donna Skrivanos, S-k-r-i-v-a-n-o-s, I think it is.
18 Mr. and Mrs. Greg Daniels. George Locke, who is not
19 in our church. He's a friend, but I haven't
20 mentioned it to him since I've been subpoenaed to
21 come here. He just knew from the paper and we
22 discussed it generally that I was coming here. Same

1 with David Collins. But really we need to get back
2 to the question.

3 Ms. Holland, I can't think of her first
4 name, H-o -- Allison Holland, who is in our community
5 group at church. Our church has -- it's a large
6 church of about 3000 people, but we have small groups
7 what we call community groups and there's like 15 or
8 20 in that small group, and that's where most of
9 these people are coming from and I've asked for their
10 prayers. That's about it.

11 Q Okay. Have you spoken with anyone who is
12 currently employed in the White House?

13 A No. Well, he's not in the White House, so
14 no.

15 Q I'm sorry, who is "he"?

16 A Lance Cole. I spoke with him this
17 morning. That's the first time I've ever met or
18 spoke with him.

19 MR. COLE: Immediately before the
20 deposition.

21 THE WITNESS: Right.

22 MR. FEINSTEIN: It was in the nature of the

10

1 introduction. He's spoken to Lance as much as he's
2 spoken to you.

3 BY MR. O'CALLAGHAN:

4 Q With regard to the conversation you had
5 with Mr. Snider, did you discuss the fact that he'd
6 appeared before the Committee for a deposition?

7 A He was at the church. I walked up to him
8 and I said Bob, have you been to Washington yet. And
9 he said yes, have you. And I said no, I'm going
10 today and that was the end of the conversation.

11 Q Okay. Did you have any discussions about
12 potential substance of this deposition?

13 A No.

14 Q How about with Ken Shemin?

15 A Shemin.

16 Q Shemin?

17 A S-h-e-m-i-n.

18 MR. FEINSTEIN: He's an attorney that you
19 use in Arkansas; correct?

20 THE WITNESS: He's an attorney and he's a
21 friend of mine.

22 MR. FEINSTEIN: I want to be careful about

1 what we ask in terms of those conversations. What's
2 the question with respect to Mr. Shemin?

3 BY MR. O'CALLAGHAN:

4 Q When you spoke with Mr. Shemin, did you
5 speak with him in his capacity as your attorney?

6 A Yes.

7 Q Okay. When did you speak to Mr. Locke?

8 A A month ago, two weeks ago, a long time
9 ago. Before I had any dates about coming here.

10 Q How about Mr. Collins?

11 A Same.

12 Q Did you review any of the events that you
13 anticipated to be the potential subject of this
14 deposition?

15 A I'm sorry?

16 MR. FEINSTEIN: With someone?

17 BY MR. O'CALLAGHAN:

18 Q With Mr. Locke or Collins? Let's start
19 with Mr. Locke.

20 MR. FEINSTEIN: Do you understand the
21 question?

22 THE WITNESS: No, not really. Did I

1 discuss with Mr. Locke anything that I thought would
2 be the subject of this meeting?

3 BY MR. O'CALLAGHAN:

4 Q Correct.

5 A Of this deposition?

6 Q Yes, sir.

7 A Not that I recall. It was more just
8 general conversation.

9 Q How about Mr. Collins?

10 A Same.

11 Q Any conversations with them about the
12 underwriting that Collins, Locke & Lasater or Lasater
13 & Company did during the 1980s?

14 A No.

15 Q Okay. Did you do anything to prepare for
16 this deposition today?

17 A Yes. I met with an attorney here and my
18 attorney, Rich, and my attorney in Little Rock. The
19 attorney in Little Rock gave me some --

20 MR. FEINSTEIN: Hold on. You don't want to
21 be disclosing the substance of your communications
22 with your attorney in Little Rock.

1 THE WITNESS: Okay.

2 BY MR. O'CALLAGHAN:

3 Q Did you review any documents to prepare for
4 today?

5 A Yes. Not a lot, though.

6 MR. COLE: Not as many as in the stack by
7 Mr. O'Callaghan, I'm suspecting.

8 MR. FEINSTEIN: That's for sure.

9 THE WITNESS: Maybe about this stack here.

10 BY MR. O'CALLAGHAN:

11 Q I'm assuring you the stack beside me we
12 won't be using everything. It's more of a safety
13 blanket.

14 Where did the documents come from that you
15 reviewed?

16 A My attorney's office.

17 Q Were these documents that you'd produced to
18 the Committee or been produced on your behalf to the
19 Committee?

20 A Some of it would have been. Some of it
21 would have been.

22 Q Did you conduct a search for any documents

14

1 in response to subpoenas issued by the Committee?

2 A Did I personally?

3 Q Yes, sir.

4 A No --

5 Q Did you --

6 A -- my staff did.

7 Q -- instruct anyone to?

8 A Yes.

9 Q What type of search was conducted for the
10 documents in response to the Committee's subpoena?

11 A Well, we have -- my attorney has probably
12 3, 4 million documents and he, I guess, went through
13 those in response to the subpoena.

14 Q Is your attorney custodian of documents for
15 the company that was Lasater & Company?

16 A I'm sorry?

17 Q Is your attorney custodian for documents
18 that belonged to Lasater & Company?

19 A Yes.

20 MR. FEINSTEIN: So is Mr. Starr. He's the
21 custodian for a lot of those documents.

22 THE WITNESS: He's the largest custodian.

1 BY MR. O'CALLAGHAN:

2 Q Is that the same for Collins, Locke &
3 Lasater?

4 A It was all the same. They were all in the
5 same place.

6 MR. COLE: And your understanding,
7 Mr. Lasater, is that your attorney reviewed all of
8 those documents and has produced to the Committee
9 anything that was responsive to the Committee's
10 document subpoena?

11 THE WITNESS: Yes.

12 MR. COLE: Thank you.

13 MR. FEINSTEIN: Let me just, if I could for
14 the record, just to supplement Lance's statement, as
15 you may be aware, a number of documents that may have
16 been responsive to the subpoena were previously
17 produced to the special prosecutor in Arkansas and
18 copies were not retained. And there was
19 correspondence back in October, I believe, from Mike
20 Lax, your attorney in Little Rock, explaining which
21 documents were being produced --

22 THE WITNESS: Right.

1 MR. FEINSTEIN: -- and which documents
2 couldn't be produced because they didn't have them
3 anymore. I just wanted to make sure that the record
4 was clear that there may be some responsive documents
5 that couldn't be reviewed or produced because they
6 weren't in their possession at the time they received
7 the subpoena.

8 MR. COLE: And the Committee has
9 correspondence from the independent counsel on this
10 subject so I'm sure Mr. O'Callaghan is aware of that.

11 MR. O'CALLAGHAN: Yes, but thank you for
12 stating it for the record.

13 THE WITNESS: I think we furnished a
14 receipt that we received from special counsel to
15 satisfy the subpoena.

16 BY MR. O'CALLAGHAN:

17 Q Okay. Are you aware of any documents that
18 were in existence at one time that were responsive to
19 the subpoenas that have since been lost, destroyed,
20 or otherwise disposed of?

21 A No.

22

1
2 Q And your present business address?

3 A Street address or post office -- mailing
4 or --

5 Q Mailing. Street address is fine, I'm
6 sorry.

7 A 1500 Macon, M-a-c-o-n, Drive, Little Rock,
8 Suite D7 I think it is; 72211 I think.

9 Q And what's your current form of business?

10 A I'm sort of a deal-type person, you know, I
11 don't have one specific area. I do real estate
12 development. I have some timber land, saw mills that
13 are owned by my family. Commercial real estate.

14 Q So you're involved in a number of different
15 businesses?

16 A Yes.

17 Q During the period on January 1982 through
18 October 1986, what was your employment position?

19 A January '82 through when?

20 Q October 1986.

21 A In January 1982, I would have been involved
22 mostly in horses, horse breeding and racing, with

18

1 farms in Ocala, Florida; Goshen, Kentucky. At that
2 point, I think I still owned a restaurant chain by
3 the name of -- or was the general partner and manager
4 of a restaurant chain.

5 It was owned by 10 or 12 different people,
6 which I was one or some of my family was one of
7 those, by the name of Andy's Hamburgers; a
8 restaurant, group of restaurants, I can't think how
9 many. I think I sold this in 1985 by the name of
10 Black Eyed Pea which was in Little Rock, Memphis,
11 around, and that's where I spent the majority of my
12 time, there.

13 Now, during the period in '8 -- maybe in
14 1980 I was an investor in an investment banking firm
15 by the name of Collins, Locke & Lasater. There was
16 George Locke -- the company of Collins, Locke &
17 Lasater sometime in that area of '82-83 purchased
18 George Locke's stock.

19 He was an employee, but he had some
20 financial problems and needed the money. So the
21 company purchased his stock, and I was the 50/50
22 owner of that business with David Collins.

1 Q Okay. If I could just get you to back up
2 just a second. I wanted to ask you how you first got
3 involved with becoming an investor in Collins, Locke
4 & Lasater.

5 A George Locke was a friend of mine. George
6 knew David Collins. David was living -- had lived in
7 Little Rock and was living in Memphis at the time and
8 was working for a bond firm over there that I don't
9 recall the name of. And he would come on weekends,
10 maybe every other weekend, back to Little Rock.

11 And through my association with George and
12 his associations with George, I met David. And he
13 was talking about coming back to Little Rock and
14 starting an investment banking firm, and needed some
15 financial supporters. And I think it was 1980-81,
16 somewhere in there, that each of us put up \$68,500 I
17 think, and started Collins, Locke & Lasater.

18 Q Had you been involved in the investment
19 banking business before that?

20 A No.

21 Q Had Mr. Locke?

22 A No.

20

1 MR. COLE: Do you have an educational
2 background in finance or business?

3 THE WITNESS: No, I have no educational
4 background other than high school. I graduated from
5 high school. And I did spend four years at the
6 University of McDonald's.

7 BY MR. O'CALLAGHAN:

8 Q During your first year of operation of
9 Collins, Locke & Lasater, what level of involvement
10 did you have in the day-to-day operations of the
11 firm?

12 A None. I mean board meetings.

13 Q Did the firm have an office in Little Rock?

14 A Yes.

15 Q And where were those located?

16 A Initially they were located in the First
17 National Bank building.

18 Q And do you have an office in the office
19 space for the company?

20 A No.

21 Q How long were they in the National Bank
22 building?

1 A This was a long time ago and I'm just going
2 to have to give you my best guess; okay?

3 Q If that's all you can give me, that's
4 fine.

5 A A year or so.

6 Q And where did the company move after that?

7 A They moved across the street to the First
8 Federal building.

9 Q And how long were they in that space for?

10 A They were there until August of '9 -- '82,
11 I'm sorry. I think it was '82. It was either '82 or
12 '83.

13 Q And did you maintain an office in the
14 office space during that time?

15 A No.

16 Q How many times would you say you went into
17 the offices during the first year or two of
18 operation?

19 A I had an office -- I think that's when my
20 office for Andy's Hamburgers was still in the First
21 National building, so, you know --

22 Q Same building?

22

1 A -- probably every day I'd stop down. We
2 could have -- we moved our offices out to West Little
3 Rock later on, and I don't remember exactly how or
4 when that worked.

5 Q But even though you didn't have offices in
6 the office space, you still think you visited
7 approximately every day, or close to that?

8 A When we were in the building; other than
9 that, probably maybe once a week or so, twice a week.

10 Q How many employees did the firm have the
11 first year of operation?

12 A This is a best guess; okay? I'd say five
13 to 10.

14 Q What kind of customer base did the company
15 have in the first year of operation?

16 A I don't know. I really don't. I wasn't --

17 Q Do you know how much business the company
18 did in the first year, how much money it took in?

19 A No.

20 Q Did it make money the first year?

21 A I don't think so. I think it lost money
22 the first year.

1 Q How about the second year, how many
2 employees did it have?

3 A Roughly double that.

4 Q Do you know what the volume of business
5 was, how many customer accounts?

6 A No, huh-uh.

7 Q Do you know whether the firm lost or made
8 money, broke even?

9 A Best guess is that we made money the second
10 year.

11 Q Any particular reason why you remember or
12 think that the firm made money the second year? Did
13 you have a good year?

14 A I just recall that we lost money the first
15 year and I probably wouldn't have stayed with it if
16 it lost money again the second year.

17 Q Okay. How about the third year, did it
18 continue to grow in its third year?

19 A Yes.

20 Q And how many employees were at the firm
21 during the third year of operation?

22 A Well, the third year we would have been

1 over at First Federal, and it was considerably more
2 space there, so I would say that we had 30, 30 to --
3 35, 40 maybe, total employees.

4 Q Okay. Do you recall whether the firm made
5 money that year or not?

6 A I don't recall whether it made money or
7 not, but I know that it had to have made money
8 because, you know, we kept expanding, and we wouldn't
9 have continued to increase our investment without it
10 making money. But I don't recall how much it made or
11 how little or how much.

12 Q Okay. During the period 1980 through the
13 end of 1982, what was the primary source of income
14 for the firm? How did the firm make money, what did
15 it do?

16 A It was a broker/dealer with mostly
17 institutional. At this point, I know that it was
18 mostly institutional. But that would be closer to
19 '82, and in the beginning, I don't have any idea
20 what the customer base was. But I know at that point
21 it would have been mostly institutional.

22 Q And what type of securities did the firm

1 deal in?

2 A Mortgage-backed securities, Treasury bills,
3 municipal bonds, corporate bonds. But the vast
4 majority would have been mortgage-backed securities,
5 Treasuries, and munis.

6 Q And during the period '80 through '82, were
7 the majority of the employees of the company
8 salesmen --

9 A Yes.

10 Q -- salespeople?

11 A Uh-huh. David was a salesman himself.

12 Q David Collins?

13 A Yes.

14 Q During the period 1980 through 1982, did
15 the company have any underwriting capabilities or
16 anyone assigned to do underwritings?

17 A Not that I recall that we did.

18 Q Did there come a time when the company
19 moved out of the First Federal building?

20 A Yes.

21 Q When did that happen?

22 A I think it was in August of 1982.

26

1 Q Where did the company move to next?

2 A It moved to 312 Louisiana Street.

3 Q Is that in Little Rock?

4 A Yes, it is.

5 Q Is that in the downtown section of Little
6 Rock?

7 A Yes, it is.

8 Q What prompted the move to 312 Louisiana
9 Street?

10 A Mostly a need for additional space, and
11 that was -- need for additional space.

12 Q Was that space for more salespeople,
13 administrative staff, both?

14 A Both.

15 Q Do you know how many employees were
16 employed by the company in 1983?

17 A 1983 --

18 Q This would have been during the first year
19 of operation at the Louisiana Street address?

20 A We would have had close to 50 salespeople,
21 and I would say 20 to 25 support staff and
22 management.

1 Q 20 to 25 support staff and management?

2 A Right. And traders, that would be part of
3 the 20-25 too, would be traders.

4 Q Did the company make money in 1983?

5 A Best I recall, our year end was like in the
6 middle of the year, like June or July, but yes, we
7 did make money.

8 Q Do you know how much?

9 A No, it would -- the best I can remember, it
10 would have been in excess of a million dollars.

11 Q When did the firm first become involved in
12 underwriting municipal bond offerings?

13 A I don't remember. At one point in there,
14 David hired Michael Drake, and I don't know -- I
15 can't recall exactly when that would be.

16 Q Okay. And who is Michael Drake?

17 A He was the senior vice president in charge
18 of corporate finance, underwriting.

19 Q Was he hired for the express purpose of
20 beginning underwriting activity by the company?

21 A The best I recall, David Collins hired him,
22 and that was his expertise, so I would have assumed

1 that, yes.

2 Q Were you involved in discussions about
3 hiring Mr. Drake?

4 A I can't recall if I was involved or not.

5 Q Did there ever come a time when the company
6 decided it wanted to get involved in underwritings?

7 A I don't recall being involved in that
8 decisionmaking process.

9 Q But were you kept apprised of efforts taken
10 to enter into the underwriting business?

11 A I don't really recall that. You know, I
12 don't recall when; you know, one day we wasn't and
13 the next day we were. I don't recall any of that.

14 Q When the company moved to the offices at
15 the 312 Louisiana Street address, did you maintain an
16 office at the company at that address?

17 A Not initially.

18 Q When did you begin keeping an office at the
19 company?

20 A The building had three floors. The third
21 floor was a small bookkeeping office, and I had that
22 redecorated for my own personal office at one point,

1 and I think that would have been '84, maybe '85.

2 Q Okay. And prior to the time when you had
3 the third floor redecorated, did you have any other
4 office space dedicated to you in the building?

5 A Not that I recall. You know, I can sit
6 here and see where everyone was sitting, but I don't
7 think I had an office that was labeled my office. I
8 could have, but I don't recall that.

9 Q How much time did you spend at the -- how
10 many days a week did you spend at the 312 Louisiana
11 Street address in 1983?

12 A I don't know.

13 MR. COLE: Did you have other business
14 ventures at this time, Mr. Lasater?

15 THE WITNESS: Yes. I was -- you know, the
16 horse business was my main activity at the time. I
17 was still involved in both the restaurants at the
18 time I think. At one point in time there, I sold
19 Andy's of America or Andy's Hamburgers to Garland
20 Street and a couple other investigators.

21 And at one point in time, they were on the
22 second floor of 312 Louisiana Street, but I don't --

30

1 I can't recall when all that took place.

2 BY MR. O'CALLAGHAN:

3 Q Okay. In around the time that the company
4 moved into 312 Louisiana Street, did you maintain an
5 office in town to do work associated with the other
6 businesses you were involved with?

7 A In Little Rock? I was at the Andy's of
8 America office until we sold that, and I think that
9 was in '92, '91 or '92. And I was at that office
10 until then.

11 Q And where was that --

12 A I could have had an office at Collins,
13 Locke & Lasater. I'm not -- you know, I'm not saying
14 that I didn't have, but I don't recall having an
15 office there.

16 Q Where was the Andy's office located?

17 A It was located out west. I can't recall
18 the address, but it was out next to Parker Cadillac,
19 off of Shackelford.

20 Q Is that West Little Rock?

21 A Yes, it is.

22 Q Excuse me, I'm not familiar with the town.

1 A I understand.

2 Q Mr. Cole might have a better
3 understanding. I do not.

4 With regard to the underwriting activity
5 the company was involved with, was the company
6 involved in underwriting municipal bonds? Do you
7 know what type of bonds --

8 A That would be city bonds.

9 Q City or state bonds?

10 A Yes, we did state bonds.

11 Q Did the company underwrite any other kind
12 of bonds?

13 A I'm sure that we did. I don't recall what
14 they would have been.

15 Q Was the how many people were employed in
16 the underwriting department?

17 MR. FEINSTEIN: Do you have a particular
18 time?

19 BY MR. O'CALLAGHAN:

20 Q Well, let's talk about the first year it
21 was in operation, and then if it changed, let me know
22 how the department developed.

1 A There was a point in time where David hired
2 Michael Drake, and I don't know when that would have
3 been, maybe '81, latter part of '81, first part of
4 '82, maybe '83.

5 Q Was he the only person involved in
6 underwriting when he was first hired?

7 A It seemed like there was another girl and
8 then a secretary-type person.

9 Q Did the department grow later on, or did it
10 stay the same number of people working there?

11 A Pretty much the same.

12 Q You said there was a secretary-type person
13 working with Mr. Drake and then you said another
14 person. Do you know what type of work that person
15 did? Were they doing research or --

16 A The way that it would have had to happen is
17 Michael would have come on first. He would have
18 probably hired a secretary and then maybe an
19 assistant, but I don't recall when any of that took
20 place.

21 The best that I recall, that there was a
22 maximum of three people in that department at one

1 time.

2 Q During the period 1982 through 1986 --
3 rather let me start off, might as well start from the
4 beginning -- 1980 through 1986, did the firm
5 experience any financial troubles?

6 MR. FEINSTEIN: Do you have an
7 understanding of what he means by "financial
8 troubles"? If you don't, we can ask him to clarify
9 it.

10 THE WITNESS: Yeah. Would you clarify
11 that, please? Is that cash or is that net capital,
12 or is that -- what are we talking about?

13 BY MR. O'CALLAGHAN:

14 Q Well, include all of those. Did you have
15 any cash problems in 1980 through 1986?

16 A Not that I recall.

17 Q Okay. How about problems with regard to
18 net capital levels?

19 A I recall an event that took place somewhere
20 in '81-82, I think it had to be '82 because I believe
21 that it was at 312 Louisiana and I might have had an
22 office there at that point. But I recall that Gary

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1 Chambers and Michael Drake came to me and said that
2 they felt that we were in net capital violation.

3 Q And the reason you think you might have had
4 an office there, you think they might have come to
5 you while you had an office that belonged to you?

6 A Well, I'm not sure. It seemed like they
7 came to me in an office. I don't know if I was just
8 in an office, like in David's office, you know, or if
9 I had an office. I don't recall having an office
10 there at that point.

11 Q But it was when you were at the 312
12 Louisiana address?

13 A The best I recall, yes.

14 Q And what problems did they identify to you?

15 A What I recall is that Gary Chambers had
16 just come on board. Michael Drake was fairly new.
17 And the financial officer that we had in place at the
18 time was using hard assets like desks and buildings
19 and stuff for net capital, and that wasn't allowed.

20 Q Okay. What was Mr. Chambers's position?

21 A He was CFO.

22 Q That's chief financial officer?

1 A Yes.

2 Q And you said there was a financial officer
3 that was using desks and buildings for net capital
4 calculations?

5 A Right.

6 Q What was the name of that person?

7 A It would have had to have been Jim
8 MacDonald, I think. Jim MacDonald was there before
9 Chambers. I think it was Jim MacDonald.

10 Q Did they mention the use of a boat being
11 used as part of the calculation for net capital
12 levels?

13 A I don't know if we had the boat at that
14 time or not. It could have been. It was hard
15 assets. It was not liquid assets. It could have
16 been a boat. We had a boat at one time.

17 MR. COLE: Prior to the time of the meeting
18 that you just described, Mr. Lasater, had you had any
19 involvement with the firm's net capital
20 computations?

21 THE WITNESS: No, not that I recall.

22 MR. COLE: Thank you, Mike.

1 BY MR. O'CALLAGHAN:

2 Q Sure. Did they say why they came to you
3 with this news about the problems with net capital
4 calculations?

5 A Well, they didn't -- they didn't say why
6 they came to me, but, you know, if we needed net
7 capital, I was going to be the one that had to put
8 the cash or the securities or something in, so.

9 Q They were coming to you for the money?

10 A Right.

11 MR. COLE: You understood why they were
12 coming to you?

13 MR. FEINSTEIN: They didn't have to say
14 that?

15 THE WITNESS: That's right, they didn't
16 have to tell me.

17 BY MR. O'CALLAGHAN:

18 Q After they told you about the financial
19 officer using the hard assets for the net capital
20 calculations, what else did you talk about? Did you
21 respond or --

22 A That was 13, 14 years ago, 15 maybe. The

1 best I recall is that -- I mean, there had to be
2 something done that day, and that either my mother or
3 children or somebody had stocks or bonds or
4 something, and we just pledged them over to solve the
5 net capital problem, and then worked out the details
6 later.

7 Q Did you notify any regulatory agencies
8 about the net capital problems?

9 A Did I?

10 Q Yes.

11 A No.

12 Q Did anyone at the company?

13 A I don't know. I would assume they did.

14 Q Other than the net capital problems you
15 just described, did the company subsequently ever
16 experience any net capital problems?

17 A That is the only time that I recall, that
18 sticks out in my mind.

19 Q During the same time period, did the
20 company ever experience any problems with its taxes?

21 MR. FEINSTEIN: Do you understand the
22 question?

1 THE WITNESS: Yes. I don't recall any tax
2 problems, but, you know, we're talking 14, 15 years
3 ago.

4 BY MR. O'CALLAGHAN:

5 Q I understand that. I appreciate your
6 searching your recollection all through this entire
7 process.

8 So you don't recall -- do you recall the
9 company having tax problems at any time?

10 A No. They could have, you know. With David
11 Collins, anything's possible.

12 MR. COLE: What does "tax problems" mean?
13 Income tax, state --

14 MR. O'CALLAGHAN: Any kind of payment,
15 problems with payment of taxes, any category.

16 THE WITNESS: I don't recall that.

17 BY MR. O'CALLAGHAN:

18 Q And I was talking about the company's
19 taxes. Other than the hiring of Mr. Drake and the
20 other two people you've discussed, do you know what
21 type of resources the company acquired to set up
22 their underwriting operation?

1 A No.

2 Q Where was Mr. Drake located with respect to
3 the rest of the offices in the building?

4 A He was on the first floor.

5 Q Is that where the majority of the employees
6 were housed?

7 A Yes. Mostly sales were on the first floor;
8 back office, second floor.

9 Q How many offices were on the second floor?

10 A On the second floor?

11 Q How many people were in the office --

12 MR. COLE: What period of time are we
13 talking about here?

14 BY MR. O'CALLAGHAN:

15 Q In the Louisiana Street building.

16 A I would guess that there would have been 12
17 to 15 back office personnel.

18 Q And what were most of them engaged in, what
19 type of responsibilities did they have?

20 A Well --

21 Q I'm sure it varied, but if you could --

22 A I don't really -- I was never involved that

1 much in that phase of it, but you know, they'd make
2 sure that the confirmations were sent out, the money
3 was collected, the bonds were transferred. We had a
4 person that would confirm the sale by phone the same
5 day of the trade.

6 It was just, you know, technical people.

7 You know, we were more or less -- we were a broker so
8 if we bought, if we bought bonds from Goldman, Sachs,
9 we might buy 25 million, bring them in here, and then
10 they would be sold in 2-, 5-, \$8 million blocks. So
11 there were transfers on both ends of that.

12 (Discussion off the record.)

13 BY MR. O'CALLAGHAN:

14 Q Why don't we go back on the record.

15 A Okay.

16 Q I'd asked you earlier about whether you
17 were aware of any -- I was asking about how much
18 money the company made over certain years and whether
19 you were aware of any tax problems that the firm
20 experienced. What I'd like to do is to show you a
21 document. It's a multipage document. It's been
22 produced to the Committee. It bears the FBI Bates

1 stamp FBI 00003569 through 3590, and it's a -- I
2 believe it's an FBI 302 form which is a type-up of an
3 interview that was conducted. It's dated 10/21/86,
4 and pages 1 through 22.

5 I'd like to show that to you and your
6 counsel. I'm just going to direct your attention to
7 specific portions.

8 A You want me to read this whole thing?

9 Q You have the option to read the whole
10 thing, but I'm going to direct your attention to a
11 specific portion of it.

12 MR. COLE: Before we begin on that,
13 Mr. O'Callaghan --

14 MR. O'CALLAGHAN: Sure.

15 MR. COLE: -- I've reviewed it. It's a
16 multipage document and I've reviewed it and I'm not
17 aware of anything in here that's within the scope of
18 our Resolution 120. Is there something in particular
19 in here that you feel is within the scope of the
20 Resolution that you'd like to cover with
21 Mr. Lasater?

22 MR. O'CALLAGHAN: Oh, yeah. I just said I

1 was going to direct his attention to a specific
2 portion, which begins on the bottom of page 4 to the
3 top of page 5.

4 MR. COLE: Give me a moment. What I'd like
5 to do, if there are portions that you feel are within
6 the scope of the Resolution, I'd like to look at
7 those before we read them into the record because
8 there may be some issue with regard to that. So
9 you're looking at the bottom of page 4, top of page
10 5?

11 MR. O'CALLAGHAN: Yes, sir. Last paragraph
12 on page 4 and the top three paragraphs on page 5,
13 which are clearly within the scope and have to do
14 with the questions that I've been asking Mr. Lasater
15 about earlier this morning.

16 MR. FEINSTEIN: Let me state for the
17 record, since this is the first time I've seen the
18 document, I may need to jump in with objections along
19 the lines that may be coming here just because I
20 don't know what's in here in terms of the subject
21 matter.

22 MR. COLE: So the theory would be,

1 Mr. O'Callaghan, that since these four paragraphs,
2 three paragraphs, I'm looking at have to do with some
3 general information about Collins, Locke & Lasater
4 and tax and SEC issues, that it's background
5 information that's relevant to the underwriting
6 activities of Lasater with respect to ADFA?

7 MR. O'CALLAGHAN: Absolutely, and the
8 operation of the business in general.

9 MR. COLE: And as far as background, I
10 don't have any objection to this particular portion
11 of this statement.

12 MR. O'CALLAGHAN: I didn't think you would.

13 MR. FEINSTEIN: I don't object either to
14 this part of it as being within the scope.

15 THE WITNESS: Okay. What's your question,
16 now?

17 BY MR. O'CALLAGHAN:

18 Q I'm going to quickly read the four
19 paragraphs that I just identified for you which begin
20 on the bottom of page 4, starting with in August 1982
21 and continuing on the next page on page 5 three
22 paragraphs which follow that. The last one beginning

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1 in August 1983 -- actually, before I do that, just
2 for purposes of identification, I also want to note
3 for the record that on the bottom of the first
4 page -- at the top of the transcription is 10/21/86.
5 At the bottom of the first page, it says
6 "investigation on 10/14/86." It says "North Little
7 Rock, Arkansas has a file number LL 245 F2."

8 A I remember it well.

9 Q Do you remember giving a statement to the
10 Federal Bureau of Investigation on that day?

11 A Yes, I do.

12 Q Did you give the statement to Eugene
13 Crouch, C-r-o-u-c-h?

14 A Right.

15 Q Okay. First, I'll read the portion of the
16 interview which is relevant to this question.

17 "In August 1982, Collins, Locke & Lasater
18 made \$1 million in profits. But in the following
19 months, the company started losing money, causing him
20 a risk of nearly \$1 million. Compounded by a loss of
21 profits and being told on May 13th, 1982 that there
22 were possible tax violations, Collins, Locke &

1 Lasater was established as a holding company in
2 December 1982. It was during this time period that
3 the Securities Exchange Commission (SEC) and other
4 regulatory agencies had to be notified regarding the
5 possible tax violations.

6 "In August 1983 Collins, Locke & Lasater
7 (CL&L) was dissolved." And it says "However, George
8 Locke had not been part of the company as of November
9 1982."

10 My first question is, with regard to the
11 income flow to the company during August and also
12 during -- generally during 1982, whether this
13 refreshes your recollection about how much money they
14 made in 1982 and 1983?

15 A Well, I think I testified earlier that I
16 thought we made a million dollars or so in there, and
17 this is -- what this says is that we made a million
18 dollars through August of '82. And that could have
19 been the year end, August could have been the year
20 end, but I was thinking it was June or July.

21 MR. COLE: It could also be that the FBI
22 agent that transcribed this wasn't exactly a

1 financial whiz and may not have exactly got down what
2 you said, so I wouldn't be concerned that an FBI
3 transcription that was prepared seven days, according
4 to the date, after an interview doesn't match exactly
5 your recollection of financial details like this.

6 THE WITNESS: Okay.

7 BY MR. O'CALLAGHAN:

8 Q You said you recall that the company made
9 about a million dollars in 1982.

10 A I know that one point there we were very
11 profitable, and I think we made, you know, right at a
12 million dollars in one year end.

13 Q Okay. Then it says --

14 A It would have been about this time.

15 Q Then it states -- the interview
16 transcription reads after that "but in the following
17 months the company started losing money."

18 MR. COLE: I object to the characterization
19 of this as an interview transcription. An FBI 302
20 report is not a transcription. It's a typewritten
21 summary of notes presumably taken by an agent, which
22 is a very different thing than a transcription which

1 is what our court reporter is doing here.

2 MR. FEINSTEIN: I join in that objection.

3 MR. O'CALLAGHAN: I didn't mean to
4 mischaracterize the document, Mr. Cole. I was
5 referring to the way the document was characterized
6 on the top of the page, which is date of
7 transcription 10/21, that's why I used this.

8 These are notes of an interview that you
9 participated in; is that right?

10 THE WITNESS: Yes.

11 MR. COLE: Just to be clear, the term on
12 the top of the first page, date of transcription, is
13 the transcription of the agent's notes, not the
14 transcription of Mr. Lasater's statements. And I
15 think if you are trying to use this as a prior
16 statement either to refresh his recollection or to
17 raise questions about his prior testimony here today,
18 we need to be very clear that this is not a verbatim
19 transcription; it's a secondhand rendition by an FBI
20 agent.

21 MR. FEINSTEIN: Have you ever seen this
22 document before, Mr. Lasater?

1 THE WITNESS: I think I have. I think I
2 have.

3 BY MR. O'CALLAGHAN:

4 Q Okay. My question actually wasn't towards
5 the accuracy of the document but whether the notation
6 here, after "in August 1982, Collins, Locke & Lasater
7 made \$1 million in profits, but in the following
8 months the company started losing money."

9 Do you have a recollection after the
10 company made approximately a million dollars in 1982
11 whether the company started losing money?

12 A Yes, there were -- our business was
13 interest rate sensitive. If interest rates were
14 going down, that was good. If they were going up
15 that was bad. And it's sort of like this
16 (indicating), it's not a flat playing field.

17 So what I recall is that in 1982, August of
18 1982, we moved into 312 Louisiana. I remember, what
19 I recall is, that for the first four or five months
20 after we moved into that new building at 312
21 Louisiana, we were very profitable. I do know also
22 that after that, we had times where we were not

1 profitable.

2 Q Okay. Do you recall during what time
3 period that the company was experiencing loss of
4 profits?

5 A Well, as I just testified, what I recall is
6 that after we moved into the building in August of
7 '82 -- I think it was August of '82 -- for a period
8 of four or five months we were very profitable.

9 Q Okay.

10 A Everything was going our way, interest
11 rates must have been going down.

12 Q But after that the company experienced
13 problems?

14 A Not problems, I just don't think we were
15 always profitable on an every month basis.

16 Q Okay. I'd like to direct your attention to
17 page 5, the first paragraph.

18 A 5 or 4?

19 Q 5. The next paragraph, which reads
20 "compounded by a loss of profits and being told on
21 May 13th, 1982 that there were possible tax
22 violations, Collins, Locke & Lasater was established

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1 as a holding company in December 1982."

2 Do you have a recollection that a
3 combination of loss of tax -- loss of profits and
4 being told on May 13th, 1982 that there were possible
5 tax violations, that the company was established as a
6 holding company?

7 A No. What I recall is that the holding
8 company was established to -- as a place to have the
9 hard assets away from the liquid assets that was
10 needed for the broker/dealer.

11 Q Okay. And was that set up in response to
12 the problems the company was having with net capital?

13 A I'm not sure of that, but I think that's
14 was the case. I'm not positive of that.

15 Q Do you recall whether, around May of 1982,
16 the company was experiencing a loss of profits?

17 A No, I don't recall that.

18 Q Do you recall whether the SEC was ever
19 informed, or any other regulatory agencies were
20 informed, that the company might have been involved
21 in possible tax violations?

22 A I would have not been the person to notify

1 them. It would have been someone that would have
2 worked in -- let's see, what's that called. There's
3 a department that -- compliance. It would have been
4 in the compliance department.

5 Q Okay. Just referring you again to the
6 exhibit I just showed you, do you recall relating to
7 the FBI agent that the company informed the SEC or
8 other -- or that there was a determination made that
9 the Securities Exchange Commission or other
10 regulatory agencies had to be notified regarding
11 possible tax violations?

12 A I don't recall that.

13 MR. COLE: Could I ask a very basic
14 question about this? Mr. Lasater, you testified here
15 this morning that you recalled that there were net
16 capital issues that arose under the net capital rule
17 that's administered by the Securities Exchange
18 Commission. I took that to be --

19 THE WITNESS: And the state securities
20 department.

21 MR. COLE: I took that to be the focus of
22 your testimony. This 302 report refers to tax

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1 violations. Do you recall, at the time you gave this
2 interview, which I see by the date is almost exactly,
3 a little short of 10 years ago, do you recall whether
4 you discussed tax violations or net capital
5 violations? And what I'm really getting at here is
6 whether you may have discussed net capital violations
7 and this FBI agent may have called that loosely tax
8 violations.

9 THE WITNESS: It would fit more here, you
10 know, net capital here would fit more here than tax
11 violation. Tax violation, I'm not sure what a tax
12 violation is.

13 MR. COLE: This doesn't make sense to me
14 the way it's written, other than perhaps you
15 described a net capital violation and someone who's
16 not familiar with the securities industry and the net
17 capital rule called it a tax violation.

18 MR. FEINSTEIN: I think you testified
19 earlier that you don't have any independent
20 recollection of any tax violations.

21 THE WITNESS: No, I do not.

22 MR. O'CALLAGHAN: That's precisely why I

1 asked the question.

2 MR. COLE: That's the problem with FBI 302
3 reports. I've sat in on plenty of FBI interviews and
4 then later obtained the 302 reports, and they're not
5 a perfect reflection of what happens in interviews.
6 I can tell you. I'll testify for a minute, Mike.

7 MR. O'CALLAGHAN: Sure, yeah, go ahead.

8 MR. COLE: Okay, thank you very much.

9 Those are all the questions I have.

10 BY MR. O'CALLAGHAN:

11 Q Where was Mr. Drake's office in relation --
12 this is again once you-all moved into the Louisiana
13 building, the building on Louisiana Street. Where
14 was his office in relation to the salesmen on the
15 first floor?

16 A You want me to draw a picture?

17 Q If you could give me a description, that
18 would be great, the best that you can.

19 A The salespeople were pretty much in the
20 center of the building on the first floor. There
21 would be a wall, a thick wall, maybe 40 inches, that
22 opened up into another general office area and his

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1 offices would have been somewhere back off of those;
2 okay?

3 This would be the sales floor. This would
4 be the opening into a general office area, and his
5 would have been somewhere in here. There would have
6 been offices around like so (indicating) and he would
7 have been somewhere in here. I think he would have
8 been right in, you know, like that or over here. I
9 can't recall.

10 Q So it's a big, open office area off of the
11 area where the salespeople were --

12 A Right.

13 Q -- in another room?

14 A Uh-huh. And his group was, let's say, a
15 third of that area.

16 Q Who else was located in that area?

17 A Compliance. At one time compliance was
18 there; later they went upstairs. I think Jim
19 MacDonald was there, who was the CFO, and Gary
20 Chambers.

21 MR. COLE: I want to go off the record for
22 a minute. Mr. Giuffra has joined us here.

(Discussion off the record.)

BY MR. O'CALLAGHAN:

Q During the period 1983, who were the Lasater company's main competitors?

A In 1983?

Q Yes, sir.

A Regional competitors?

Q Yes, sir.

A Stephens, T.J. Raney. Dabs Sullivan worked for someone, I can't remember the name of that company, but it was a --

Q Is that George K. Baum?

A Yes, I think it was Baum, yes. I think Brittham was there at that point.

Q Could you spell that?

A B-r-i-t-t-h-a-m, I think. Brittham. Smith & Associates would have been a competitor. Langford, I think there was a company by the name of Langford, and several other smaller ones. Delta Financial. And I'm sure there were others that I can't recall.

Q How many people did T.J. Raney have working for them at this time?

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A I don't know.

Q Do you know how many people Stephens had working for them?

A Stephens is the largest in the state. They did fixed income as well as equities. Lasater & Company and Collins, Locke & Lasater were only in the equity side -- I'm sorry, fixed income side. We were not in the equity side. So he could have had a hundred. I don't know. I'm just -- that's a best guess.

Q Okay. With regard to the other firms you just named, did Collins, Locke & Lasater or Lasater & Company compete with them for any of the state bond underwriting business?

A With Baum, Stephens, Raney, I recall, later on, we competed against. I don't know in that particular time if we would have or not. I wouldn't have been as actively involved at that point.

Q Did there come a time when you became more actively involved in overseeing underwriting process?

A Well, not necessarily underwriting, but the entire firm. There was in, I think it was 19 --

1 summer of '84 is when I was -- '84 or '85, I received
2 my Series 7 license and actually ran the company for
3 one year.

4 Q With regard to the other firms you just
5 mentioned, how large was Lasater & Company compared
6 to, say, Dab Sullivan. Did it have more employees
7 than Dab Sullivan?

8 A Yes.

9 Q How about T.J. Raney?

10 A I would think that we would have had more
11 employees than all of them, with the exception of
12 possibly Stephens.

13 Q How about people that were dedicated to
14 work on underwritings?

15 A I'm sorry?

16 Q People who were working on underwritings.

17 MR. COLE: You mean as opposed to the sales
18 force that might be selling the securities that were
19 being underwritten?

20 MR. O'CALLAGHAN: Yes.

21 MR. COLE: I don't understand the
22 distinction you are making there.

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1 BY MR. O'CALLAGHAN:

2 Q Were there people in the office who were
3 dedicated to bringing in underwriting business to the
4 firm?

5 A Yes.

6 Q I think you stated earlier that was
7 Mr. Drake; he had an assistant and a secretary?

8 A Right. That would have been the maximum
9 amount that I recall working in that area.

10 Q Okay. Do you know how many people worked
11 in that area for Dab Sullivan?

12 A No, but there would have been more, I would
13 assume. That was their main area of business, was
14 underwritings.

15 Q Okay. How about T.J. Raney?

16 A I don't know. I would think they would
17 have probably had similar to us, but I don't really
18 know.

19 Q Okay.

20 A Stephens would have had more, I would have
21 thought.

22 Q Okay. How about Smith & Associates?

1 A I'm not sure if they had underwriters. I'm
2 not sure.

3 Q How about Delta Financial?

4 A I don't believe they had underwriters, but
5 I don't recall them having underwritings.

6 Q And Brittham?

7 A I don't think they had underwriters.

8 Q And Langford?

9 A I think they did have because they did a
10 lot of school bonds and stuff like that.

11 Q When the company was involved as a
12 comanager in an underwriting deal for a state bond
13 issuance, what were the costs that were associated
14 with the company's participation as an underwriter?

15 A Well, you had your staff; you had legal,
16 which was expensive.

17 Q Is that the payment of the underwriting
18 counsel or counsel to the underwriters, or was that
19 something separate?

20 A There is always legal issues that, you
21 know, that come up that we had to have legal counsel
22 for, over and above the bond counsel.

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1 Q So this was specifically just for Lasater &
2 Company, or was it for everyone involved in the
3 underwriting syndicate?

4 A Both. You would have your own counsel, and
5 then you would have the syndicate counsel.

6 Q And was there one law firm that the company
7 used?

8 A Seemed like there was a Selig that we used,
9 S-e-l-i-g, was an attorney early on and I can't
10 recall. I know we used the Mitchell firm. And I
11 think Selig was an attorney with the Mitchell firm.
12 And we might have used Wright, Lindsey & Jennings.

13 Q Did you use any other firm?

14 A You know, I'm just going by the best I can
15 recall. I can't recall any other firms that we would
16 have used.

17 Q So other than the cost of the staff and the
18 cost of the legal counsel, what other costs were
19 associated with being involved in underwriting?

20 A You know, I really wasn't that involved to
21 know what all the costs would have been, but I
22 certainly can't remember that department making any

1 great deal of money.

2 Q Do you remember whether they had a high
3 level of overhead?

4 A No, I don't recall. You know, with three
5 people, I don't think we would have had -- you know,
6 Michael was expensive, but I don't -- I can't recall
7 what he would have been paid.

8 Q And when you say you don't think that
9 department made a whole lot of money, is that in
10 reference to the management fees they brought in?

11 A That would have been in reference to all
12 income and all expenses.

13 Q Would that include money made off of bonds
14 sold in connection with underwritings --

15 A Yes.

16 Q -- that the company participated in?

17 A Uh-huh.

18 MR. COLE: Did you include compensation of
19 your sales force in your description of the costs
20 associated with that department? I guess I'm still
21 struggling with the distinction that Mr. O'Callaghan
22 seems to be drawing between underwriting versus sales

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1 that I look at as part of one process. If you can't
2 sell the bonds, there is not much point in
3 underwriting them.

4 THE WITNESS: Right.

5 MR. COLE: I guess the record says what it
6 says. I just don't understand --

7 THE WITNESS: But there were some losses,
8 you know, there were some losses in issues that we
9 had to take which would be charged back against the
10 department.

11 MR. COLE: Trading losses, in other words,
12 where you were unable to sell the bonds?

13 THE WITNESS: Right.

14 MR. COLE: But you were on the hook for
15 them, as they say?

16 THE WITNESS: Right.

17 BY MR. O'CALLAGHAN:

18 Q And this might help clarify for the record
19 and Mr. Cole, whether or not participating in
20 underwritings gave the company the ability to have
21 access to sell bonds that they otherwise wouldn't
22 have had access to sell?

1 A I would think that would be the case, even
2 though you could deal in those bonds in the secondary
3 market.

4 Q Okay. Thanks.

5 MR. COLE: But that doesn't -- that begs
6 the question of whether you would make money or not
7 on those bonds. There is no assurance when you
8 underwrite an issue, when you are going into it, that
9 you will make money.

10 THE WITNESS: No. You know that you are
11 going to get a certain management fee, but you
12 certainly don't know if the bonds are going to sell.

13 BY MR. O'CALLAGHAN:

14 Q I guess the reason you would go in and bid
15 as an underwriter to get access to the bonds so you
16 can sell them in the hope that you would make money;
17 is that right? You are running a business?

18 A Lasater & Company and Collins, Locke &
19 Lasater was an institutional firm with most of its
20 customer base scattered throughout the United
21 States. We did not have a large Arkansas customer
22 base. Those were -- the people that had the Arkansas

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1 customer base and the institutions within the state
2 of Arkansas were the biggest buyer of the bonds
3 because, the best I recall, that those bonds would
4 also be free of state tax, which was extra incentive
5 if you were an Arkansas institution.

6 Q So while your firm was located in Arkansas,
7 the majority of your clients were outside of
8 Arkansas; is that right?

9 A I would guess that 95 to 98 percent of our
10 clients were outside the state of Arkansas.

11 MR. O'CALLAGHAN: Why don't we take a quick
12 break here.

13 (Recess.)

14 BY MR. GIUFFRA:

15 Q It's nearly the afternoon. Good afternoon,
16 Mr. Lasater. My name is Robert Giuffra. I'm the
17 chief counsel of the Senate Banking Committee and
18 I'll be asking you some questions today.

19 A Okay.

20 Q When did you first meet Bill Clinton?

21 A I think the first time I met Bill Clinton
22 was after Fred White defeated him in 1982.

1 MR. COLE: Just for the accuracy of the
2 record, since it's a matter of public record,
3 Mr. Lasater, I think that election was in 1980.

4 THE WITNESS: Oh, it was.

5 MR. COLE: You're the witness here, but
6 that's something that's well established in the
7 record. It was the same year that Ronald Reagan was
8 elected President, if that helps you recall that
9 particular election. I just don't want you to be out
10 of sequence with your timing. If you are like me,
11 you remember things in a sequence. And I think
12 neither Mr. Giuffra or Mr. O'Callaghan, I think,
13 disagree with me on that.

14 MR. GIUFFRA: No, absolutely.

15 BY MR. GIUFFRA:

16 Q But you think it was right after Frank
17 White defeated Governor Clinton?

18 A Yes.

19 Q Which we can take notice of, it was in
20 1980. What was the context in which you first met
21 Bill Clinton?

22 A It could have been after that because I

1 don't recall being involved in the broker/dealer -- I
2 don't even think the broker/dealer was in business at
3 that point.

4 What I recall is in '82 after -- I thought,
5 did he not win the election in '84 and defeated in
6 '82? Because Collins, Locke & Lasater would not
7 even have been in business at that point, so, you
8 know, my recollection must be way off.

9 MR. COLE: If it helps your recollection, I
10 think we all here agree that his first term in
11 office, he was elected in '78 and served '79 and '80,
12 was defeated by Frank White in the election of '80.
13 Frank White was governor '81 and '82. Clinton won
14 again in '82, and served as governor from '82
15 until --

16 THE WITNESS: On forward.

17 MR. COLE: -- becoming President.

18 THE WITNESS: Well, it still had to be
19 closer to '82.

20 BY MR. GIUFFRA:

21 Q So sometime in about '82, you think you met
22 Bill Clinton?

1 A Right. It might have been the end when
2 Frank White was --

3 Q Was in office?

4 A -- in office.

5 Q What was the context in which you met Bill
6 Clinton?

7 A He called George Locke who was a state
8 senator, and asked if he could get together with
9 David and George and I.

10 MR. COLE: Was Collins, Locke & Lasater in
11 business at that time?

12 THE WITNESS: Yes.

13 BY MR. GIUFFRA:

14 Q So "David" was David Collins; correct?

15 A Yes.

16 Q And George Locke was your other partner in
17 Collins, Locke & Lasater?

18 A Yes.

19 Q So Governor Clinton called and asked George
20 Locke if he could meet with you and Mr. Locke and
21 Mr. Collins?

22 A That's the way that I recall it.

1 Q Was he in office at that point?

2 A No, he was not.

3 Q He was running for election?

4 A That's the way that I recall it, he was not
5 in office, and he was looking for support for the
6 upcoming election.

7 Q Okay. So that would have been 1982, then;
8 correct?

9 MR. COLE: Presumably that would have been
10 in 1982 when he was running for governor against
11 Frank White who would have been the incumbent at that
12 time, Republican incumbent.

13 BY MR. GIUFFRA:

14 Q What do you recall about that first meeting
15 with Bill Clinton?

16 A I don't recall much about the meeting. I
17 have been told by David Collins and George Locke -- I
18 really do not recall the meeting at all. But I was
19 told by George Locke and David Collins that he called
20 and wanted to -- and wanted to meet with us. But I
21 still don't recall the meeting. But I don't doubt
22 that the meeting happened.

1 Q And it was a meeting, as far as you know,
2 concerning making a possible contribution to his
3 upcoming gubernatorial campaign?

4 A Yes, and support.

5 Q Do you recall -- do you have any knowledge
6 as to how long the meeting might have been?

7 A I'm just going from what Locke and Collins
8 told me.

9 Q With that caveat.

10 A It wasn't long, half an hour or an hour
11 maybe.

12 Q At your offices?

13 A No. It was at 12B, which is an apartment
14 that I know you-all are aware of.

15 Q What is 12B?

16 A It was an apartment that I had downtown in
17 the Quapaw Towers. Now, that's what I was told. As
18 I'm telling you, I don't recall the meeting at all.

19 Q Okay. And apartment 12B was a Lasater
20 Company apartment?

21 A No, it was more of a personal apartment.

22 Q That you had in --

1 A Right.

2 Q -- downtown Little Rock.

3 Do you recall how much money you might have
4 contributed to Governor Clinton's -- or I guess
5 ex-Governor Clinton's gubernatorial campaign in 1992.

6 MR. COLE: '82.

7 BY MR. GIUFFRA:

8 Q Excuse me, I apologize.

9 A No, I really don't.

10 Q Do you know whether you agreed at this
11 meeting to make a contribution to his campaign?

12 A I'm sorry, repeat your question.

13 Q Do you recall whether at the meeting
14 Mr. Locke, yourself and Mr. Collins agreed to make a
15 contribution to Governor Clinton's campaign?

16 A I don't recall the meeting. I'm just going
17 from --

18 Q Do you have an understanding, based on what
19 Mr. Locke or Mr. Collins have told you, that the
20 three of you agreed to make some sort of a
21 contribution or to attempt to solicit contributions
22 for Mr. Clinton?

1 A I think he was there to solicit
2 contributions. They haven't told me that we -- that
3 he -- that we made a commitment at that point.

4 MR. COLE: So essentially, he was asking
5 for you and your partners' support in his bid for
6 reelection?

7 THE WITNESS: Right.

8 BY MR. GIUFFRA:

9 Q Okay. When was the next time you met
10 Governor Clinton that you can recall?

11 MR. FEINSTEIN: Which would really be the
12 first time that he can recall. I owe you a couple.

13 MR. GIUFFRA: Yeah, for the water.

14 MR. FEINSTEIN: Yeah.

15 THE WITNESS: I think that the first time I
16 met the Governor Clinton would have been with his
17 mother at the racetrack. I think he was -- maybe I
18 won a stake race that day and his mother -- maybe he
19 and his mother came to the boardroom after the races,
20 and I was a guest through the fact that I'd won a
21 stake that day.

22 BY MR. GIUFFRA:

1 Q Now, was this in Hot Springs?

2 A Yes, it was.

3 Q Did you know his mother before you knew
4 Governor Clinton?

5 A Yes.

6 Q How long had you known Mrs. -- was it
7 Virginia Kelly?

8 A Well, I think it was Virginia Clinton when
9 I met her. She married Dick Kelly later. It would
10 have been late '70s.

11 Q And had she been someone you had a fairly
12 regular contact with from the late '70s up through
13 the early '80s?

14 A I would just see her at the races. At that
15 point, we had no social contact.

16 Q When was the first time you met Roger
17 Clinton?

18 A I met Roger, it would have been late '70s,
19 early '80s.

20 Q Before Governor Clinton?

21 A Yes. And we met him, he was singing at a
22 night club in Hot Springs is when I first recall

1 meeting Roger.

2 Q And did you meet Roger Clinton through a
3 man named Mitchell Wood?

4 A That's a possibility because Mitchell is a
5 friend of both of ours.

6 Q And who is Mitchell Wood?

7 MR. COLE: Before you answer that,
8 Mr. Lasater, if Mr. Giuffra would permit, I'd just
9 like to make a very brief statement regarding this
10 line of questioning. I know Mr. Giuffra has a
11 theory, which I frankly don't understand, as to how
12 this is relevant to the matters that are set out in
13 Senate Resolution 120, and the Majority does not
14 share that theory.

15 MR. GIUFFRA: Minority.

16 MR. COLE: I'm not objecting to the
17 question. I'm just making clear for the record that
18 at some point, I may object if we don't get around to
19 something that's related to the bond underwriting
20 contracts between Lasater Company and ADFA, which is
21 what the resolution calls for.

22 MR. FEINSTEIN: Let me add, at some point,

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1 since I haven't heard the theory, I'd like to hear it
2 when it becomes pertinent.

3 MR. GIUFFRA: I haven't asked any questions
4 other than when did he meet the governor's brother
5 and mother.

6 MR. COLE: I have no problems regarding
7 when he met the governor's brother and mother. Now
8 we're getting into a third person who I'm assuming
9 has something to do with the governor's brother which
10 I assume, in your mind, has something to do with the
11 bond underwriting contract between Lasater and ADFA.

12 That's the point you lost me. That's where
13 I thought I would make my statement.

14 MR. GIUFFRA: Do you want to make a
15 statement?

16 MR. FEINSTEIN: I just want to let you
17 know, obviously you guys have some history in terms
18 of the theory of the relevance which I haven't heard,
19 and when the time comes it's likely that I may object
20 and I'm going to need to hear it. That's all.

21 MR. GIUFFRA: Just so it's clear, the
22 Senate has authorized the Special Committee in

1 Section 1(b)(3)(F) "to" --

2 MR. FEINSTEIN: That's where I used to kind
3 of have these nice clear red lines. Now they're kind
4 of wet.

5 MR. GIUFFRA: "To conduct an investigation
6 and a public hearing into and study of all matters
7 that have any tendency to reveal the full facts about
8 the bond underwriting contracts between Arkansas
9 Development Finance Authority and Lasater & Company."

10 And it would be our view that the phrase
11 "all matters that have any tendency to reveal the
12 full facts with bond underwriting contracts between
13 the Arkansas Development Finance Authority and
14 Lasater & Company" would encompass information about
15 the extent and nature of Mr. Lasater's relationship
16 with Governor Clinton, because the theory is that
17 Governor Clinton --

18 MR. COLE: This is the part I'm interested
19 in, as Mr. Giuffra pauses to choose his words
20 carefully.

21 MR. GIUFFRA: -- may have used certain
22 influence that he possessed as governor to steer such

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1 bond underwriting contracts to Mr. Lasater's
2 company. To the extent to which the governor was
3 aware of activities of Mr. Lasater and the extent to
4 which Mr. Lasater had a relationship with the
5 governor and the governor's brother and the
6 governor's mother is relevant to that inquiry as to
7 why certain bond underwriting contracts were given to
8 Lasater & Company. So that's --

9 MR. FEINSTEIN: All right.

10 MR. COLE: Could I make one comment in
11 response, very brief?

12 MR. GIUFFRA: Sure.

13 MR. COLE: The linchpin of Mr. Giuffra's
14 theory, as I'm sure you noted, was that Governor
15 Clinton might have made some effort to steer bond
16 underwriting contracts to Lasater & Company.

17 There is no evidence of that in the record
18 so far. But that's the theory that he's operating
19 under. So you get pretty attenuated at some point.
20 If that's helpful to you in your role as counsel to
21 Mr. Lasater.

22 MR. FEINSTEIN: Yes, thank you. The only

1 reaction I was going to have at this point was that I
 2 think there is a bit of a leap factually from the
 3 theory to the facts, but we'll just have to take it
 4 question by question.

5 MR. GIUFFRA: The other thing is, you know,
 6 just to call your attention -- I don't know whether
 7 Mr. O'Callaghan did -- again, I really want to try to
 8 keep the speeches to a minimum.

9 MR. COLE: I'm sure Mr. Lasater does too,
 10 since he's having to pay for a lawyer while we're
 11 doing all this. I'm sensitive to that fact.

12 THE WITNESS: Thank you.

13 MR. GIUFFRA: Both of us are, having once
 14 been private counsel. Section 5(b)(7) of the
 15 resolution specifies the procedure for the conduct of
 16 depositions. And I would --

17 MR. FEINSTEIN: There I have a dry red
 18 line.

19 MR. GIUFFRA: I'll get you a new copy of
 20 that if you want.

21 I'll just read it. "If a witness objects
 22 to a question and refuses to answer on the basis of

1 relevance or privilege, the Special Committee staff
 2 may proceed with the deposition or may, at that time
 3 or at a subsequent time, seek a ruling on the
 4 objection from the Chairman. If the Chairman
 5 overrules the objection, the Chairman may order and
 6 direct the witness to answer the question, but the
 7 Special Committee shall not initiate proceedings
 8 leading to civil or criminal enforcement unless the
 9 witness refuses to answer after having been ordered
 10 and directed to answer."

11 Let's go off the record here.

12 (Discussion off the record.)

13 (The reporter read the record as requested.)

14 THE WITNESS: Mitchell Wood is a friend of
 15 George Locke's that I met through George Locke. It's
 16 my understanding he's also a friend of Roger's, and
 17 it is possible that I met Roger through Mitchell
 18 Wood. And it's possible because of Mitchell that
 19 that would have been at the racetrack.

20 BY MR. GIUFFRA:

21 Q In Hot Springs?

22 A In Hot Springs, Oaklawn Park.

1 Q Now, you just testified that the first time
2 you can recollect meeting Governor Clinton was at the
3 racetrack with his mother, then Virginia Kelly?

4 A You know, I think that's correct. You
5 know, I don't have a vivid memory of that.

6 Q I think just going forward -- and I'm sure
7 counsel has already advised you to this -- if you
8 have, you know, if your recollection of an event is
9 clear, you know, you can say I clearly recall X.

10 A Right.

11 Q If you have a vague recollection, you can
12 say I vaguely recall Y. Just preface your testimony
13 by, you know, the extent of your memory. I would
14 also -- at some point, if you don't recall, you have
15 no memory, say you don't recall. But when you say
16 you don't recall, you know, it should be an instance
17 in which you have no memory.

18 If you have a vague recollection, you
19 should give us -- say I have a vague recollection of
20 X, Y and Z. It's not a memory game. And I can tell
21 you, I realize the events we're talking about are in
22 some instances --

1 A 15 years ago, 20 years ago.

2 MR. COLE: And also, Bob, this came up
3 before you came in. Mr. Lasater hasn't had an
4 opportunity to review the FBI 302 report on which you
5 may be basing some of your questions. The report
6 involves an interview that took place 10 years ago.

7 It's further complicated by the fact that
8 it's an FBI agent's version of his understanding of
9 what happened and not a verbatim transcription. I
10 think we need to be careful, as fair as we can in
11 questioning about things that happened so long ago.

12 BY MR. GIUFFRA:

13 Q Absolutely. Going back to the racetrack,
14 you think you met him in the boardroom with his
15 mother, the governor?

16 A I have a vague memory of that.

17 Q Was he governor at the time?

18 A I'm not sure.

19 Q Do you recall anything about the meeting in
20 the boardroom at the racetrack between yourself,
21 Virginia Clinton and Governor Clinton, or Bill
22 Clinton?

1 A I recall Virginia Clinton and I think that
2 Bill Clinton could have been there or stopped in.

3 Q Do you recall anything that Bill Clinton
4 might have said to you?

5 A No.

6 Q And when was the next time you might have
7 met Bill Clinton?

8 A There was two times that I recall vividly
9 that could have been the next time. One time was at
10 an apartment in Little Rock that Billy Calhoun had a
11 group of supporters of Clinton, and Clinton stopped
12 by.

13 Q Was it a fundraiser?

14 A No. It was sort of a fundraiser. I mean,
15 it wasn't an official type fundraiser. It was just
16 Billy Calhoun invited 20, 25 people over, and knowing
17 and telling us that the governor was going to stop
18 by, and it was going to be contributions involved.
19 You know, we would give a check to the governor.

20 MR. COLE: Is Mr. Calhoun a political
21 figure?

22 THE WITNESS: No, he's not at all. He's an

1 insurance broker over there.

2 BY MR. GIUFFRA:

3 Q Do you recall approximately how many people
4 were at this meeting in the apartment?

5 A 25, 30.

6 Q Were the checks given directly to the
7 governor?

8 A I can't recall that.

9 Q Was the governor accompanied by anyone?

10 MR. FEINSTEIN: Have we established that he
11 was the governor at the time?

12 BY MR. GIUFFRA:

13 Q Was he the governor at the time?

14 A I don't know if he was the governor at the
15 time. I don't recall.

16 Q And did you speak to Bill Clinton at that
17 occasion?

18 A I'm sorry?

19 Q Did you speak to Bill Clinton at the
20 fundraiser at Billy Calhoun's apartment?

21 A I'm sure I shook his hand, but, you know,
22 he wasn't there 15 minutes, 10 minutes.

1 Q And what was the next time you might have
2 met him?

3 A Well, I gave a fundraiser for him in '84, I
4 think it was, wasn't it? That information was given
5 to the special prosecutor, and I don't have that
6 handy. But I think it was.

7 Q This is information that your firm provided
8 to the independent counsel?

9 A I'm sorry?

10 Q Your firm provided this information to the
11 independent counsel?

12 A Yes.

13 Q Do you know whether your firm retaped
14 copies of the information that was provided to the --

15 A We did not. This is the first meeting that
16 we had and this was when Robert Fiske was the special
17 counsel. We went out with a bunch of stuff and we
18 just were naive and thought we were just going to
19 take everything we had out there and lay it on the
20 table and go over it. And about two weeks later, we
21 got a subpoena for everything we had since '79.

22 Q And so you gave the documents to Special

1 Counsel Fiske and did not retain copies?

2 A We gave it to a gentleman by the name of
3 Bob Duffy. We have a receipt where we've given that
4 to them, and I think we furnished that to you with
5 the items that you subpoenaed.

6 MR. GIUFFRA: I believe your counsel --
7 have you consented to allow us to obtain these
8 documents from the independent counsel?

9 MR. FEINSTEIN: I don't know that I've been
10 asked.

11 MR. GIUFFRA: I'll ask you right now on the
12 record.

13 MR. COLE: There is correspondence you may
14 not be familiar with, Mr. Giuffra, between the
15 Committee and the Department of Justice with respect
16 to documents relating to Mr. Lasater that are in the
17 possession of the Independent Counsel.

18 MR. GIUFFRA: I think that's different,
19 though, than Mr. Lasater's documents. These are
20 documents that Mr. Lasater had in his possession that
21 were taken by the Special Counsel in response to a
22 subpoena, in executing the subpoena, as opposed to

1 documents that the Department of Justice generated on
2 its own with regard to Mr. Lasater.

3 And I think what we've done with other
4 witnesses is, although we haven't been able to do
5 this yet, try to get copies of the documents from the
6 Independent Counsel. So you wouldn't have an
7 objection to us --

8 MR. FEINSTEIN: I'd like to have an
9 opportunity to discuss it with my client before I
10 respond to that.

11 MR. GIUFFRA: Okay. Let's do that at the
12 break.

13 MR. FEINSTEIN: And I also want to make
14 sure -- we can do this off the record. But I want to
15 make sure I have a clear understanding of what it is
16 you're asking for.

17 BY MR. GIUFFRA:

18 Q It is your understanding, Mr. Lasater, that
19 there are certain records of a fundraiser that you
20 held for Governor Clinton in 1984 that were turned
21 over to the Independent Counsel?

22 A Yes.

1 Q Do you have any recollection as to how much
2 money you might have raised for Governor Clinton at
3 that fundraiser?

4 A No, I really don't.

5 Q Would it be --

6 A There were quite a few people there,
7 though.

8 Q Would you say more than 50 people?

9 A Yes, there would have been closer to a 100,
10 maybe 150.

11 Q Where was the fundraiser held?

12 A It was held at Trapnall Hall in Little
13 Rock, which is a public -- it's an old house that's
14 made available to the public that you can rent.

15 Q Would you recall approximately what the --
16 was there a price tag on how much it cost to attend
17 this event?

18 A No.

19 Q Would you estimate that \$100,000 or more
20 was raised, or \$100,000 or less than?

21 A I'd say less than a hundred.

22 Q More than \$50,000?

1 A I'm guessing; okay?

2 Q Yeah.

3 A I would guess somewhere in the 50 range.

4 Q Now, between the time when you first met
5 the governor sometime in approximately '82 and this
6 '84 fundraiser, did you communicate with Bill
7 Clinton by telephone or by letter that you can
8 recall?

9 A I remember talking to him on the phone a
10 couple of times, but I can't target it being between
11 those two years. It's possible. And I've written,
12 you know, several letters, but I can't target exactly
13 when those letters were written.

14 Q Okay. Now, in planning this fundraiser
15 that you held for Governor Clinton in 1984, did you
16 speak to him on the phone in advance of the
17 fundraiser?

18 A I don't recall speaking to him on the phone
19 in advance of the fundraiser.

20 Q Did you speak to Betsey Wright prior to the
21 fundraiser?

22 A No. I don't think I've ever --

1 Q Do you know Betsey Wright?

2 A Yes, I know who she is. I see her on TV
3 all the time. And I saw her on TV all the time back
4 then. But I don't recall ever meeting Betsey Wright
5 personally and I could have, but I certainly don't
6 have a close relationship or anything.

7 Q Now, a woman named Patsy Thomasson, she
8 worked for Lasater & Company?

9 A Patsy worked on special events for Lasater
10 & Company, yes.

11 Q During what period?

12 A This would have been in that '82 range.

13 Q Until when?

14 A Patsy, in her work for Lasater & Company,
15 was very brief. Patsy went to work for me in the
16 holding company that owned Lasater & Company as
17 administrative assistant.

18 Q At what time?

19 A Maybe '83, but, you know, it could have
20 been '8 -- late '82, early '83.

21 Q And so between '82 and '83 she did special
22 events for you for Lasater & Company?

1 A Right.

2 Q Did she do anything else for any other
3 entity that you controlled?

4 A Patsy, at that time, had a hospital
5 consulting business, and she had been an
6 administrator of a hospital in Little Rock. Her and
7 someone else were doing consulting business in the
8 state of Arkansas with the smaller hospitals to make
9 a living at that time.

10 Q Did Ms. Wright -- then she came to work for
11 you as an administrative assistant in the holding
12 company. What was the name of the holding company?

13 A Did you say Ms. Wright?

14 MR. FEINSTEIN: I think you said Wright.

15 BY MR. GIUFFRA:

16 Q Excuse me, Ms. Thomasson.

17 A I think it was Lasater, Inc.

18 Q You think was probably 1983?

19 A '82 -- late '82 or '83. What I recall is
20 David Collins, who was the President of Lasater &
21 Company -- Collins, Locke & Lasater at the time,
22 okay, and in '82 David had a big party planned for

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1 people in the savings and loan industry, planned in
2 New Orleans. And there was a convention, you know,
3 where all of the savings and loan people from -- I
4 don't know if it was regional or national or
5 whatever, and we flew down there to go to this party
6 that we were giving for the savings and loan, okay.
7 But the only problem was that was on a Sunday evening
8 that I recall.

9 Q What was the name of the savings and loan?

10 MR. FEINSTEIN: It's a convention.

11 THE WITNESS: It was a convention --

12 BY MR. GIUFFRA:

13 Q Did you own a savings and loan?

14 A No, no, I've never owned one. Thank God.

15 So we flew down for this party that we were
16 giving for the savings and loan principals that were
17 at the convention. When we arrived at the party, it
18 was determined that the convention let, you know, was
19 over like, let's say, noon Sunday and our party was
20 planned Sunday evening. And here we had like a
21 \$12,000 expense and we had six people show up.
22 Okay.

1 So that's when I contacted Patsy, who is a
2 good administrator, and asked her if she would be
3 willing to, in the future when we had events like
4 this, to make sure they were done properly and that,
5 you know, all the I's were crossed and -- I's dotted
6 and T's crossed. And she took that on a per --

7 Q Per event basis?

8 A Right.

9 Q Now, Ms. Thomasson then went to work for
10 Lasater, Inc. in '83, approximately?

11 A Uh-huh.

12 Q And then could you just describe for the
13 record her progression, what job she held for either
14 Lasater, Inc. or any other companies that you
15 controlled or owned?

16 A I think I was still in the horse business
17 when Patsy went to work for me. So I recall I had a
18 horse dispersal sale in Lexington, Kentucky in the
19 fall of '83, and Patsy was there. So that means that
20 she was working for me in the fall of '83.

21 At that point I was in four or five
22 different businesses, restaurant business, horse

1 business mainly. And Patsy's job was to sort of
2 oversee the office in Little Rock, to make sure that
3 the -- I had two farms, one in Goshen, Kentucky, one
4 at Ocala, Florida. We had trainers at three
5 different race tracks and she just coordinated all of
6 it.

7 Later on, in the summer of '84, I purchased
8 a 28,000-acre land development ski resort in New
9 Mexico, and Patsy I put in as the assistant chairman
10 and she pretty well ran that project for me, worked
11 off and on -- you know, I got in trouble in 1986.

12 I went to Patsy and I told her at that
13 point, I said you need to make a decision because I'm
14 going to be indicted. You need to make a decision
15 whether you're going to stay or go. And if you are
16 going to go, you need to go now.

17 Q When was it you had this conversation with
18 Ms. Thomasson?

19 A It must have been '86.

20 Q Do you recall when in '86?

21 A No. She decided to stay.

22 Q So she ran your business for you?

1 A Yes.
2 Q When you were --
3 A Incarcerated.
4 Q -- incarcerated?
5 A Right.
6 Q And then how much longer did she stay
7 working for you?
8 A She worked for me until 199 -- when was
9 Clinton elected President?
10 MR. COLE: '92, started running in --
11 THE WITNESS: In the summer of '91 she went
12 to work for the state Democratic party, I think.
13 BY MR. GIUFFRA:
14 Q And that was last time she was employed by
15 you?
16 A Yes.
17 Q Now, what was your understanding of
18 Ms. Thomasson's relationship with Governor Clinton
19 during the 1980s?
20 A I know that Patsy has always been
21 involved -- you know, Patsy worked for Wilbur Mills
22 and she's always been involved in the Democratic

1 party to some extent, and I don't know how close
2 Patsy and Clinton were.
3 Q Was she someone who was in fairly regular
4 contact with Governor Clinton during the 1980s while
5 she worked for you?
6 MR. FEINSTEIN: Can we get some
7 clarification on what you mean by "fairly regular"?
8 BY MR. GIUFFRA:
9 Q More than monthly.
10 A No, I wouldn't think so.
11 Q Six times a year?
12 A I wouldn't think so.
13 Q So less than six times a year?
14 A Yes.
15 Q So I would describe that as probably fairly
16 irregular contact then --
17 A Right.
18 Q -- with Governor Clinton?
19 A Right.
20 Q Were they personal friends as far as you
21 knew?
22 A No, not that I'm aware of.

1 Q Did she communicate with Governor Clinton
2 on behalf of Lasater, Inc. or Lasater & Company or
3 Locke, Collins & Lasater?

4 MR. FEINSTEIN: Can I have that one read
5 back? I want to make sure I heard that correctly.
6 I'm not concerned about the subject matter. I just
7 want to make sure we got it because there was a lot
8 in that question.

9 (The reporter read the record as requested.)

10 MR. FEINSTEIN: Why don't you take them one
11 at a time if you can, the three entities that he
12 referred to.

13 THE WITNESS: I would think that she would
14 have some communication with him. I don't know who
15 she would have communicated with. Patsy was the one
16 that was responsible to me for the fundraiser. I
17 don't know who her communication would have been with
18 on that.

19 BY MR. GIUFFRA:

20 Q So Patsy was basically your liaison with
21 the Clinton campaign in connection with the 1984
22 fundraiser that you organized for Governor Clinton?

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1 A She was my liaison with someone.

2 Q Do you know who that someone was?

3 A No. The only other time that she would
4 have possible contact with the Clintons is we
5 invited, when we owned Angel Fire, we had Arkansas
6 Week out there and we had invited the Clintons to
7 come out for Arkansas Week. And someone had -- and
8 that -- Patsy could have been in touch with them on
9 that occasion.

10 Q Did the Clintons attend this Arkansas Week
11 at Angel Fire?

12 A No.

13 Q Okay, we're up to the '84 fundraiser. What
14 was your next contact with Governor Clinton that you
15 can recall?

16 A I would see Governor --

17 MR. GIUFFRA: Did I say '85 or '84
18 fundraiser?

19 MR. FEINSTEIN: You said '84.

20 BY MR. GIUFFRA:

21 Q Okay.

22 A In the summer of '84, in the summer of '84,

1 my wife and I had an open house for a new house that
2 we built. Well, it was a rebuild of an old house and
3 the Clintons were invited along with 40, 50 other
4 people, and Governor Clinton stopped by for 10, 15
5 minutes. That would have been -- and the reason I
6 remember those dates is I remember when we moved into
7 the house. And that, I think that would have been in
8 the summer of '84.

9 Other times I would see Governor Clinton at
10 charity events and shake his hand and things like
11 that. I recall calling him one time on -- and asked
12 if I could -- and it could have been in this time
13 frame -- and asked if I could come see him. And he
14 said yes, so I went out to the state capitol and
15 asked to be given more of the state ADFA or housing
16 bond business.

17 Q AHDA is that what it was called?

18 A Arkansas Housing Development.

19 Q Authority -- Agency?

20 A And that's what I recall. That's what I
21 recall I went out to see him about.

22 Q You went out to his office or the

1 governor's mansion?

2 A I went to his office.

3 Q I'm sorry, at the state capitol?

4 A Right.

5 Q Was anyone else present at this meeting?

6 A I don't think so.

7 Q Was Betsey Wright present at the meeting?

8 A I'm sorry?

9 Q Was Betsy Wright present at the meeting?

10 A I don't think so. I don't think anyone was
11 present.

12 Q Do you know a man named Sam Bratton?

13 A I didn't until I saw him on TV the other
14 day. Is he the attorney for Clinton back --

15 Q He was a former staffer for Clinton when
16 Clinton was governor of Arkansas.

17 A Wasn't he just on --

18 MR. COLE: He was a witness at the Senate
19 hearings and he was a counsel to the governor.

20 THE WITNESS: I saw part of that one
21 night. And I could have met him, but I don't recall
22 him.

1 BY MR. GIUFFRA:

2 Q Your recollection is that this meeting you
3 had with the governor at the capitol was just the two
4 of you?

5 A Yes.

6 Q And you asked him if you could, if he would
7 see to it that your firm got more bond underwriting
8 work involving the Arkansas Housing Development
9 Agency?

10 MR. FEINSTEIN: I object to the form of the
11 question, but answer it if you can.

12 THE WITNESS: What I recall is that I was
13 upset because we were the second largest capitalized
14 broker/dealer in the city and we were not being
15 treated fairly, in my opinion, in the amount of bond
16 business that we received. We were down on the
17 bottom tier instead of on a tier with Stephens and
18 some of the other larger --

19 BY MR. GIUFFRA:

20 Q Why do you think you were on the bottom
21 tier?

22 A I don't know. Maybe because we were new,

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1 you know. I don't know.

2 Q And --

3 A But I wasn't happy that -- I felt we were
4 entitled to be a larger participant.

5 Q And what do you recall Governor Clinton
6 saying in response to your request?

7 A All that I recall is he was noncommittal
8 and would have to, you know, present our case to his
9 staff, whoever was in charge of that.

10 Q And approximately how long was this
11 meeting?

12 A 10 minutes.

13 Q And did there come a time when you had
14 someone from your firm, or yourself, present your
15 case with a member of Governor Clinton's staff?

16 A I'm sure that, you know, I don't recall
17 this, but I'm sure, knowing me, that I would have
18 gone back to Michael Drake and said, you know, you've
19 got to go back to your contact.

20 Q And do you know whether Michael Drake did
21 go back to his contact?

22 A I don't recall.

1 Q Did there come a time when you improved
2 your position --

3 A No.

4 Q -- in terms of bond underwriting?

5 A No.

6 Q So you remained on the bottom tier?

7 A Right.

8 Q So it would be your testimony that this
9 meeting with Governor Clinton did not result in the
10 awarding of any additional bond business to Lasater &
11 Company?

12 A That's correct.

13 Q Okay. Do you recall any other occasion
14 when you met Governor Clinton?

15 A In '84 or '5, somewhere in there, our
16 investment -- could have been '83.

17 Our investment banking firm had a Derby Day
18 party about every year and we invited all of our
19 customers, we invited the salespeople. And we made
20 it sort of a social event out of it. And every year
21 the governor was invited and one year he came, and I
22 don't recall what year that was. He and Hillary both

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1 came.

2 Q Okay. Did the governor ever visit your
3 apartment in the Quapaw Apartments, Q-u-a-p-a-w?

4 A Quapaw.

5 Q Quapaw.

6 A That's what I testified earlier to, that I
7 don't recall him being there.

8 Q On any occasion?

9 A I don't recall that, but George Locke and
10 David Collins had both told me that he was there.

11 Q So just the one occasion?

12 A Right.

13 Q But do you recall any other occasions?

14 A No.

15 Q So that one occasion would be the only
16 occasion when he visited you at your apartment?

17 A Right.

18 Q At the Quapaw Apartments?

19 A Right. And I don't recall that, but I've
20 been told that he was there.

21 Q Did Governor Clinton attend any of your
22 Christmas parties that you can recall?

1 A He could have. I don't recall him
2 attending a Christmas party. I think I recall -- I
3 think that he stopped at the country club one time
4 when he was there doing something else and stopped
5 in.

6 Q At your Christmas party?

7 A Yes.

8 Q Do you remember the name of the country
9 club?

10 A Little Rock Country Club, or Country Club
11 of Little Rock.

12 Q So you think maybe on one occasion he would
13 have stopped by your Christmas party?

14 A Uh-huh.

15 Q She needs a yes or no.

16 A Yes.

17 Q And you can only recall one meeting with
18 the governor's office at the state capitol; is that
19 correct?

20 A That's correct.

21 Q And did Governor Clinton ever visit you at
22 your offices at Lasater & Company?

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1 A I don't recall him ever being at our
2 offices. I'm not saying that he wasn't, but if he
3 was, he wasn't a frequent -- but I cannot today
4 recall him ever being there.

5 Q Did you ever meet with Governor Clinton for
6 breakfast that you can recall?

7 A I don't ever recall --

8 MR. COLE: Does that question mean a
9 one-on-one meeting for breakfast or a breakfast event
10 as are held in many places for, you know, social or
11 business reasons where a large number of people would
12 be present and the governor might be there as a
13 speaker or participant?

14 MR. GIUFFRA: Either.

15 BY MR. GIUFFRA:

16 Q Just anything involving breakfast, any
17 meetings with you and Bill Clinton in which breakfast
18 was served?

19 A Well, I remember a breakfast that we had,
20 the company -- Collins, Locke & Lasater or Lasater &
21 Company, one of the two -- had at the Excelsior Hotel
22 where there was a convention of savings and loans and

1 banks and stuff in town, and we give this breakfast
2 for all those people. And I think that he could have
3 been there, but I don't have a vivid memory of that.

4 Q Did you ever meet with Governor Clinton for
5 a lunch meeting?

6 A Not that I recall.

7 Q Did you ever have a dinner meeting with
8 Governor Clinton you can recall?

9 A The only time that I recall would have been
10 when we opened a restaurant in the '83-84 area.

11 Q Is this a place called Andy's?

12 A No, it's called Pulley Bones. And, you
13 know, we sent out invitations to everyone and we
14 sent -- it was where people come and sample the food
15 and there's no charge, and free drinks, free food.
16 And, you know, you invite the people in the community
17 that you would like to be there, and he came out for
18 that.

19 MR. COLE: Those are the events that
20 politicians usually show up at, free food, free
21 drinks.

22 THE WITNESS: Well, he knows there's going

1 to be a lot of people there.

2 MR. FEINSTEIN: They say Congressional
3 staffers show up at those, too.

4 MR. GIUFFRA: Not anymore.

5 BY MR. GIUFFRA:

6 Q Have you ever -- did you ever visit the
7 governor's mansion?

8 A Yes.

9 Q Okay. Do you know approximately how many
10 times you might have visited the mansion?

11 A I can recall twice.

12 Q Okay. What do you recall about those two
13 times you visited the governor's mansion?

14 A They were both social events. They weren't
15 one-on-one type meetings. They were functions. And
16 I think that Bob Hope was there once, and there might
17 have been some type of a charity. I don't recall
18 what the other one was, but I think it was when Bob
19 Hope was in town.

20 Q And did you use the front entrance when you
21 arrived at the governor's mansion?

22 A Yeah.

1 Q Okay.

2 A They weren't ashamed of me at that time.

3 Q Do you know anyone named Miss Lizzy?

4 A Who?

5 Q Miss Lizzy, Ms. Liza?

6 A No.

7 Q Worked at the kitchen of the governor's

8 mansion?

9 A No.

10 Q Don't know her?

11 A Huh-uh. Now, I could have met her, but --

12 Q Did you know any of the state troopers who
13 were assigned to the governor?

14 A Yeah. I knew -- I've seen them. You know.

15 Q Did you know any of them by name?

16 A No.

17 Q Did you ever have any contact with any of
18 the state troopers who were assigned to the
19 governor's security detail?

20 A Personally?

21 Q Yeah.

22 A No.

1 Q Did anyone from any of the firms that you
2 owned or controlled have any contact with any of the
3 state troopers who were assigned to the governor's
4 security detail?

5 A I had a driver by the name of Chuck Berry,
6 and he wasn't the singer, either, but he knew one of
7 them. And he would -- you know, if he would drive me
8 to an affair or something, and I just know, I'd see
9 him talking to him a couple of times.

10 Q Do you remember the name of the state
11 trooper?

12 A No.

13 Q L.D. Brown?

14 A No.

15 Q Do you know L.D. Brown?

16 A All I know is what I read about him and you
17 know, he's so far off-base that you know --

18 Q What is he off-base about?

19 A Well, you know, you read about -- you know,
20 he said in Mena, that that was Lasater's deal. Well,
21 I've never been to Mena. You know what I'm talking
22 about, don't you?

1 Q You mean the airport?

2 A Right. It's been in the paper, but, you
3 know, I don't know where he comes with that stuff. I
4 don't know what he has to gain by it, but I know he
5 has hurt a lot of innocent people with his
6 accusations.

7 Q Well, this is a good opportunity and I
8 don't think the Minority will object. There have
9 been accusations made about you in connection with
10 Mena airport; correct?

11 A Yes.

12 Q And what is your -- what is the extent of
13 your involvement, if any, with the Mena airport?

14 A None.

15 Q You've never been to the Mena airport?

16 A I have never in my life been to the Mena
17 airport.

18 Q Never involved in any shipments of any
19 illegal narcotics through the Mena airport?

20 A Absolutely not.

21 Q Never ever involved in any shipments of
22 arms to the Contras or any other group through the

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1 Mena airport?

2 A Absolutely not. Didn't even know about it
3 until all -- until Clinton was elected President.

4 Q Did not even know about the Mena airport
5 until Clinton was elected President?

6 A Well, I knew Mena had an airport, but I
7 didn't know --

8 Q Had you ever flown into the Mena airport?

9 A No, I have not.

10 MR. COLE: I think as Mr. Giuffra observed,
11 Mr. Lasater, this is your opportunity, if you think
12 there are things that have been said about you that
13 are untrue and unfair for you, to clear up the
14 record. I think also that even Mr. Giuffra would
15 agree that all this is outside the scope of the
16 resolution, but I want you to have whatever
17 opportunity you would like to clear the record and
18 clear your name if you want to make those kind of
19 statements. I'm not going to object.

20 BY MR. GIUFFRA:

21 Q If you came all the way to Washington, you
22 might as well get your chance to.

1 A I think I'll wait.

2 MR. COLE: Wise man.

3 BY MR. GIUFFRA:

4 Q Can you recall any other contacts including
5 meetings, telephone calls, that you might have had
6 with Governor Clinton between 1982 and 1990?

7 MR. COLE: Excuse me.

8 THE WITNESS: Well, I haven't had any
9 since '85 or '86.

10 MR. COLE: We don't have to get into the
11 issue or fact that he was out of the securities
12 business for most of that time period.

13 BY MR. GIUFFRA:

14 Q Between '82 and October of '86, can you
15 recall any other contacts you would have had with
16 Governor Clinton?

17 A There is a picture that I have that he sent
18 me where -- you know, he's a great politician. If
19 you get your picture taken with him, he'll send it to
20 you.

21 Q Smart.

22 A Right. And there is an atrium in the

1 background that I don't ever recall.

2 Q The Excelsior Hotel maybe?

3 A I think it was Arkansas Arthritis
4 Foundation because my mother was there, and she
5 recalled it and that's how I recall that. I made a
6 list at one time and there were eight times that I'd
7 been in his presence that I could recall. And since
8 then, there's been a couple other times, or three
9 more, that has been brought to my attention, like the
10 one at the Quapaw 12B at that time I didn't recall
11 that.

12 Q So your best estimate, as you sit here
13 today, is that you probably met with Bill Clinton
14 between 1982 and 1986 on 11 occasions?

15 MR. COLE: I would object to the term "met
16 with." I think a number of the occasions he merely
17 said he was present at events where Mr. Clinton --

18 MR. GIUFFRA: I'll rephrase the question.

19 MR. FEINSTEIN: I'll adopt that objection.

20 BY MR. GIUFFRA:

21 Q Your best recollection, as you sit here
22 today, is that on 11 occasions between 1982 and 1986

1 you were in the presence of Bill Clinton?

2 A That's correct.

3 Q You can't recall any other occasions when
4 you were in his presence?

5 A No.

6 Q Between 1982 and 1986, would you
7 describe -- how would you describe the nature of your
8 relationship with then -- Governor Clinton?

9 A A friend and supporter, like many people in
10 Arkansas. Not a close friend.

11 Q As far as you know, did you own any -- you
12 owned a plane between '82 and '86?

13 A Yes, I did.

14 Q What kind of a plane was it?

15 A I owned a lot of planes. You want to hear
16 them all?

17 Q Between '82 and '86, what kind of planes
18 did you own, if you can recall?

19 A '82 and '86. The first I had a Hansa jet
20 which is a German-made jet, that was my first
21 airplane. And I think I've purchased it -- oh, no,
22 that's not correct. Between '28 and '86 I think the

1 Hansa jet, I had a Lear. Collins, Locke & Lasater
2 had a West Wind which I ended up with and one of my
3 companies, I can't remember which one. And then in
4 1984 or 1985, I purchased a Canada Air Challenger.

5 Q Did Governor Clinton, between '82 and '86,
6 ever fly on any of your planes?

7 A He never flew on any of the planes with me,
8 but he used my airplanes on a couple of occasions.

9 Q When? How do you know he used your
10 airplanes on a couple of occasions?

11 A We would make our planes available. You
12 know, like the University of Arkansas used our
13 airplanes. Like when Bob Hope came to town, part
14 of -- he came on a reduced rate because we flew to
15 Los Angeles and picked him up and brought him to
16 Little Rock and then flew him to Wisconsin when he
17 finished. But, you know, our plane was made
18 available.

19 Q To the governor?

20 A To the governor.

21 Q It's your understanding he took advantage
22 of that opportunity on two occasions?

1 A Yes.

2 Q Do you recall when he would have taken
3 advantage of the opportunity to fly on a Lasater
4 aircraft?

5 A When?

6 Q Yes.

7 A No, I don't recall. But I know that we've
8 turned over records, our flight records to Starr --
9 well, Fiske or Starr. And we might have given them
10 to you if we still had copies of them.

11 Q Do you know who would have -- you don't
12 know anything of the nature of these two occasions on
13 which Governor Clinton used Lasater aircraft?

14 A I have been told -- I don't have firsthand
15 recollection, but I have been told that they were --
16 one of them was like a governor's conference, and one
17 of them was what do they do when they go out trying
18 to, you know, what these guys are doing in Maine, in
19 New Hampshire -- he was running for office.

20 MR. FEINSTEIN: Canvassing.

21 MR. GIUFFRA: Campaigning.

22 THE WITNESS: Campaigning, right.

1 BY MR. GIUFFRA:

2 Q In Arkansas?

3 A Right. I think the other time might have
4 been up here.

5 Q Do you know who might have accompanied him
6 on those flights?

7 A Huh-uh, no.

8 Q Did anyone from Lasater & Company go on the
9 flights, as far as you know?

10 A No.

11 Q Were any Lasater aircraft used by any
12 members of the governor's staff between '82 and '86?

13 A I don't believe so.

14 Q Were they used by any members of the
15 Arkansas State Police?

16 A I don't think so.

17 Q Were any Lasater aircraft used between '82
18 and '86 by any members of ADFA, the ADFA board or any
19 ADFA staff member?

20 A No.

21 Q Do you know whether Mrs. Clinton ever flew
22 on a Lasater plane?

1 A I don't know if she was with Governor
2 Clinton when he flew.

3 Q On those two occasions. Do you know
4 whether Roger Clinton ever flew on a Lasater plane?

5 A Yes.

6 Q Was he someone who regularly flew on
7 Lasater planes?

8 A He's been with me on several flights.

9 Q Do you recall where you might have gone?

10 MR. COLE: For the sake of the clarity of
11 the record, was he an employee of yours at some
12 time?

13 THE WITNESS: Yes.

14 MR. GIUFFRA: We'll get to that.

15 MR. COLE: I don't want the record to
16 suggest he was flying as an employee if there is any
17 issue about the purpose --

18 THE WITNESS: No, he was flying as a
19 friend.

20 BY MR. GIUFFRA:

21 Q Do you know where you were going with Roger
22 Clinton?

1 A I recall going to the farm in Florida. I
2 think we went to Lexington one time, Kentucky. And
3 when Roger was incarcerated, his mother and stepdad,
4 they also -- I let them use my plane to go visit
5 Roger when he was incarcerated.

6 Q Do you know how many occasions they may
7 have taken advantage --

8 MR. COLE: Was this after 1986?

9 THE WITNESS: No. It would have been
10 during '86 or late '85.

11 MR. COLE: Was it while Lasater & Company
12 was still in the securities business?

13 THE WITNESS: Yes.

14 BY MR. GIUFFRA:

15 Q Do you recall how many times Mrs. -- was
16 she Mrs. Kelly at this point -- might have taken
17 advantage of using Lasater planes?

18 A I recall one time.

19 Q All right. Did either Governor Clinton or
20 Mrs. Clinton have a securities account in Lasater
21 company?

22 A No.

1 Q I want to be delicate about this, but let
2 me just ask it. There came a time in, was it 1986,
3 when you were indicted for certain narcotics
4 offenses?

5 A Yes.

6 Q We'll get into that. When did Governor
7 Clinton first know -- strike that.

8 Do you know when Governor Clinton first
9 learned that you were under investigation for
10 narcotics offenses?

11 A No.

12 Q Did you ever discuss with Governor Clinton
13 any investigation of you for narcotic offenses?

14 A No.

15 Q Have you ever discussed -- read the last
16 question and answer back, I think he may have already
17 answered it.

18 (The reporter read the record as requested.)

19 BY MR. GIUFFRA:

20 Q Did you ever discuss with Roger Clinton any
21 investigation of you for narcotics offenses?

22 A Yes. We've, you know, we've talked about

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1 it.

2 Q When would you first have raised the fact
3 that you were being investigated for narcotics
4 offenses with Roger Clinton?

5 A Well, I'm not sure that I did -- I think it
6 was after I had been indicted. I don't recall
7 talking to him before.

8 Q Would you have discussed any investigations
9 of you for narcotics offenses with Mrs. Kelly?

10 A No.

11 Q Mrs. Clinton?

12 A No.

13 Q Patsy Thomasson, when would Patsy Thomasson
14 have been aware of it?

15 MR. COLE: He's already testified to that.

16 BY MR. GIUFFRA:

17 Q Sometime in '86?

18 A She would have been made aware in maybe
19 June, July.

20 Q Of '86?

21 A Of '86.

22 Q And do you know whether Ms. Thomasson

1 advised the governor or anyone on his staff of the
2 fact that you were being investigated for narcotics
3 offenses?

4 A Not that I'm aware of.

5 MR. COLE: Could I ask one question,
6 Mr. Giuffra?

7 MR. GIUFFRA: Sure.

8 MR. COLE: Do you know, Mr. Lasater, when
9 was the last AHDA or ADFA bond offering that Lasater
10 & Company or an affiliated firm underwrote?

11 THE WITNESS: No, I don't know.

12 MR. COLE: So my reference indicated it was
13 1985. Do you have any information contrary to that?

14 THE WITNESS: No.

15 MR. GIUFFRA: Actually, Lance, I think
16 documentation we have shows there was some
17 involvement in 1986 as well.

18 MR. COLE: I would just like to nail that
19 down if we could. It may save us a lot of problems
20 going forward, if we have a time frame for what's, I
21 think we'd all agree, at the heart of our inquiry
22 here. Go ahead. I didn't mean to interrupt. I just

1 want to bracket the time.

2 BY MR. GIUFFRA:

3 Q In this FBI 302, there is some discussion
4 of your use of cocaine. Do you recall discussing
5 that with the FBI agent?

6 A Yes.

7 Q And you did use cocaine between 1982 and
8 1986?

9 A Yes.

10 Q Was Bill Clinton aware of the fact that you
11 used cocaine?

12 A No, not that I'm aware of.

13 Q And did you ever use cocaine with Governor
14 Clinton?

15 A No.

16 Q Was Roger Clinton aware of the fact that
17 you used cocaine?

18 A Yes.

19 Q How did Roger -- what was the extent of
20 Roger Clinton's knowledge of your use of cocaine?

21 A Well, we'd shared it.

22 MR. COLE: Mr. Giuffra, you know as well as

1 I know that this is an area that I think is outside
2 the scope of the resolution, and this is all a matter
3 of public record. I'm not going to object because I
4 don't think it's fair to Mr. Lasater to waste a lot
5 of time, time that he's paying a lawyer for, to
6 object to this.

7 But I think getting into in any more
8 detail, than you already have, to his history with
9 drug use or Roger Clinton's is inappropriate in this
10 context. And I'd be very curious if you can
11 articulate some link to what we're supposed to be
12 investigating in this Committee, particularly when
13 you get to Roger Clinton.

14 MR. GIUFFRA: Well, if you want I'll make a
15 speech now or I can make it later. It's up to you.

16 MR. COLE: Why don't you proceed. I just
17 want to note an objection, purely for purposes of the
18 record, I want to note an objection that I think this
19 line of inquiry is not only outside the scope of the
20 resolution, but objectionable for any number of
21 reasons. I'll leave it at that.

22 MR. FEINSTEIN: I'll join in the objection.

1 MR. GIUFFRA: I think the record will
2 reflect that I've been very delicate in this matter.

3 BY MR. GIUFFRA:

4 Q Was Virginia Kelly aware of your use of
5 cocaine?

6 A No, not that I'm aware of.

7 Q But you don't know what Roger said to
8 either Virginia Kelly or Governor Clinton?

9 A No, but it's not something that, you know,
10 you'd talk about with your mother, I don't think. I
11 know I didn't discuss it with mine.

12 Q Just a couple of questions about Roger
13 Clinton. You testified you first met Roger sometime
14 around '81-'82?

15 A Late '70s, early '80s I think I testified.

16 Q Late 70s, early 80s, okay. Was Roger a
17 close friend of yours?

18 A I was a friend. Not a -- he wasn't -- you
19 know, I only had two or three close friends and he
20 wasn't, you know -- I was with him on occasions.

21 Q What was the extent of your relationship
22 with Roger Clinton between '82 and '86?

1 A Mostly partying.

2 Q And you say "mostly partying," what do you
3 mean by that?

4 A Cocaine, nightclubs, that kind of thing.

5 Q And was he someone --

6 MR. FEINSTEIN: I just want to complete the
7 record if you don't mind. You also had an employment
8 relationship with Roger Clinton during that period?

9 THE WITNESS: Yes.

10 BY MR. GIUFFRA:

11 Q When did you hire Roger Clinton to work
12 with you?

13 A I don't recall the exact time, but it was
14 when I owned the farm in Florida, so it would to have
15 been before '82 or '83 or '81 or somewhere in there.

16 Q And he worked for you until when?

17 A I don't recall. I think he worked down
18 there roughly four to six months.

19 Q And then did he have some other job with
20 your organization?

21 A No.

22 Q So Roger Clinton just worked for your farm

1 down in Florida?

2 A Yes.

3 Q And what did he do for the farm?

4 A He was a stablehand.

5 Q And that was between again what was the
6 years you're estimating, '81-82 for approximately
7 five months?

8 A It would have had to have been before the
9 end of '83, and it would have had to have been after
10 I met him in the late '70s, early '80s.

11 Q So sometime between the early '80s and '83,
12 he worked for approximately five months as a
13 stablehand at your farm in Florida?

14 A Yes.

15 Q Did Governor Clinton ever request that you
16 find Roger a job?

17 A Either Governor Clinton or Virginia Kelly
18 asked me to give him a job, or asked me if I would
19 hire him, or if I had a job that he could do, or
20 something along that line. And I can't recall which
21 one it was. It could have been Bill Clinton. It
22 could have been Virginia Clinton.

1 Q And that would be the job that you
2 ultimately -- you ultimately gave him a job as a
3 stablehand?

4 A I did.

5 Q With your farm in Florida?

6 A Right.

7 Q Was he ever a driver for you?

8 A No.

9 Q Do you know how much money he was paid as a
10 stablehand?

11 A He was paid the same as the other hands
12 were paid. He wasn't given any special treatment.

13 Q And he had no other -- strike that.

14 You never hired him in any other capacity
15 for any other capacity with your organization?

16 A I don't recall him ever doing anything with
17 any of my organizations other than that --

18 Q Five-month period?

19 A Right. Four to six months.

20 Q Do you recall the name of the company that
21 paid Roger?

22 A I think it was Lasater Farm. I'm sure it

1 was.

2 Q Do you recall on approximately how many
3 occasions you might have used cocaine or any other
4 illegal substance with Roger Clinton?

5 MR. COLE: I'm going to object to that
6 question. I'll leave it to Mr. Lasater and his
7 counsel whether they want to answer the question or
8 not. But I think this is so grossly outside the
9 bounds of what this Committee is authorized to
10 investigate we're bordering on unprofessional
11 conduct, Mr. Giuffra.

12 MR. GIUFFRA: No. I will tell you why. If
13 Mr. Lasater regularly used illegal narcotics with
14 Roger Clinton and one could then make the supposition
15 that Roger Clinton may have advised his brother of
16 that fact, and whether Mr. Lasater was someone who
17 used illegal drugs and therefore whether he was
18 someone who was qualified to be a bond underwriter
19 for Arkansas state business is a relevant matter.

20 MR. FEINSTEIN: Boy, there's a couple of
21 real big leaps in that hypothesis.

22 MR. COLE: That are not supported by any

1 testimony that this Committee has collected.

2 MR. FEINSTEIN: If we were in a lawsuit,
3 there would be a real foundation problem here.

4 MR. GIUFFRA: Well, that's the theory.

5 MR. FEINSTEIN: Without a factual
6 foundation, and you know, it seems to me we're in an
7 area where we have to draw a line somewhere.

8 MR. GIUFFRA: We have not deposed Roger
9 Clinton yet, so we don't know what Roger Clinton told
10 Bill Clinton.

11 MR. FEINSTEIN: He's already told you he
12 doesn't know what Roger Clinton told Bill Clinton.
13 So he can't shed light on that.

14 MR. COLE: He's also testified that he had
15 one meeting with Governor Clinton. He raised
16 concerns about the amount of bond business his firm
17 was getting. Nothing happened. His firm continued
18 to get no different treatment. So the whole premise
19 of this questioning is not supported by the record.

20 So what you are left with is what I think
21 is an attempt to smear the name of the Clintons and
22 Mr. Lasater in what will ultimately become a public

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1 deposition. It's just -- it's outrageous conduct,
2 but if you feel you need to go ahead, go ahead.

3 MR. FEINSTEIN: I do object. Before I
4 instruct the witness not to answer the question, I'd
5 like a chance to consult with him privately.

6 MR. GIUFFRA: Fine.

7 (Discussion off the record.)

8 MR. FEINSTEIN: Could we have the pending
9 question read back, please.

10 BY MR. GIUFFRA:

11 Q I'll restate the question. In general
12 terms, Mr. Lasater, what was the frequency with which
13 you would have used cocaine with Roger Clinton
14 between 1982 and 1986?

15 MR. FEINSTEIN: All right. I'm going to
16 note an objection for the record. Mr. Lasater, if
17 you want to answer that question, go ahead.

18 MR. COLE: And just for a complete record,
19 I'll note an objection for the Minority to that
20 question for the reasons I've previously stated.

21 THE WITNESS: I would estimate between 15
22 and 20 times.

1 BY MR. GIUFFRA:

2 Q In that four-year period?

3 A Yes.

4 Q That was painless.

5 A It won't be painless when it's on the front

6 page of The Arkansas Democrat with my

7 junior-in-high-school student, though.

8 MR. FEINSTEIN: Yeah, there is a question
9 of painless for whom, we ought to keep in mind. And
10 I understand you are trying to keep that in mind.

11 MR. GIUFFRA: I am trying to keep that in
12 mind. We could be here all day going through a 302
13 which is 22 pages with all kind of detail about
14 narcotics use and everything else.

15 MR. FEINSTEIN: What possible legitimate
16 purpose would that serve?

17 MR. GIUFFRA: I have no intention of doing
18 that.

19 BY MR. GIUFFRA:

20 Q Now, did there come a time in 1984 when you
21 made a loan to Roger Clinton?

22 A Yes -- well, I'm not sure of the date.

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1 Q Did there come a time sometime between '82
2 and '86 when you made a loan to Roger Clinton?

3 A Yes.

4 Q Do you roughly recall when you might have
5 made that loan?

6 A It would have been in the '84 area, but I
7 don't know if it was exactly 1984.

8 Q Sometime in 1984?

9 A Right.

10 Q What do you recall about the circumstances
11 under which you made this loan to Roger Clinton?

12 A Roger came to me and said that he owed a
13 drug dealer \$8000, and that the drug dealer had
14 threatened him, his mother and his brother if they
15 didn't pay and wanted to know if I'd loan him the
16 money, and I did.

17 MR. COLE: Just to be clear, since I'm sure
18 these words will be read very carefully at some
19 point, probably publicly, when you say the drug
20 dealer had threatened him, his mother and his
21 brother, do you mean to say that the drug dealer had
22 made threats against him, his mother and his brother

1 as opposed to having personally threatened him? Do
2 you see the distinction I'm making?

3 THE WITNESS: Yes, I do. What I was told
4 by Roger is that he owed the drug dealer \$8000 --

5 BY MR. GIUFFRA:

6 Q Did he tell you the name of the drug
7 dealer?

8 A No, he did not.

9 Q Why did he owe the drug dealer \$8000?

10 MR. COLE: Before we go on, could we
11 clarify the point because I think he understands the
12 distinction that I'm making.

13 MR. GIUFFRA: Sure, that's fine.

14 THE WITNESS: And I was told by Roger that
15 someone had threatened himself and his mother and his
16 brother harm if the drug debt was not paid.

17 BY MR. GIUFFRA:

18 Q Was the threat made just to Roger, or was
19 it made to the brother and the mother as well?

20 A I think it was made to Roger. I don't
21 believe that it was made to the mother and the
22 brother.

1 Q You know whether the brother -- do you know
2 whether Governor Clinton or Mrs. Kelly were aware of
3 this threat?

4 A I do not.

5 Q You had no understanding one way or the
6 other?

7 A No.

8 Q Have you since learned whether Roger ever
9 advised Governor Clinton or Mrs. Kelly of this
10 threat?

11 A I have not.

12 Q Let me just read to you before your --

13 MR. COLE: Before we leave the subject, can
14 I have one clarifying subject?

15 MR. GIUFFRA: Sure.

16 MR. COLE: Have you since learned whether,
17 at or about the time you made the loan to Roger
18 Clinton, he told his brother -- Roger Clinton told
19 his brother that you had made the loan?

20 MR. GIUFFRA: I was going to get into that,
21 Lance.

22 MR. COLE: I thought you were going into a

1 new subject. I thought you were moving in your
2 outline to a new subject matter.

3 MR. GIUFFRA: I think we'll get to that.

4 MR. COLE: Proceed then.

5 BY MR. GIUFFRA:

6 Q I want to backtrack and get to that point.

7 In your FBI 302, do you recall being interviewed by
8 FBI agents in approximately October 1986?

9 A Yes.

10 Q And you recall answering certain questions
11 that they had?

12 A Yes.

13 Q Let me just read what the FBI 302 says,
14 tell me whether you think it's accurate. This is at
15 page FBI 3589, page 21 of the 10/14/86 interview with
16 Danny Ray Lasater.

17 "In regard to the \$8000 loan made to Roger
18 Clinton, Mr. Lasater advised that Roger Clinton
19 approached him about borrowing \$16,000 or \$20,000 as
20 Mr. Clinton explained that someone had stolen his
21 stash of cocaine which belonged to Sam Anderson at
22 the time. The cocaine, as he recalls, was supposed

1 to have been in a car that was broken into. He
2 advised Clinton came to him and said someone was
3 putting the heat on him and something might happen to
4 his brother and his mother.

5 "The loan was not for that large of an
6 amount, but he consented to loan Clinton 8000. He
7 did not handle the transaction personally but thinks
8 it was taken care of by one of his employees in the
9 company. The transaction was done with a check and
10 it was requested that Clinton turn over his car title
11 for collateral. He denied ever buying cocaine from
12 Roger Clinton."

13 Why don't you just take a look at that and
14 see if that refreshes your recollection.

15 A Yes, it does. In just you reading it, it
16 does.

17 (Witness reviewed the document.)

18 That's pretty accurate. I recall more of
19 the circumstances now that you read it.

20 BY MR. GIUFFRA:

21 Q Okay. What more do you recall about the
22 circumstances surrounding this loan to Roger Clinton

1 following the reading of the FBI 302?

2 A That Roger told me that the cocaine was
3 stolen.

4 Q Do you recall that Roger originally asked
5 you for 16- or \$20,000?

6 A No, I don't really recall that.

7 Q Do you recall anything more having read
8 this FBI 302?

9 A No.

10 Q Do you recall Roger putting up his car
11 title for collateral in connection with the loan?

12 A I'm not sure he ever did that. I don't
13 know.

14 Q You just don't remember?

15 A No.

16 Q Now, did you ever advise Governor Clinton
17 that Roger had approached you for a loan?

18 A No.

19 Q Did you ever advise Mrs. Clinton that Roger
20 had approached you for a loan?

21 A No.

22 Q And by "Mrs. Clinton," I mean Virginia

1 Kelly.

2 A No.

3 Q Did you advise anyone --

4 A No.

5 Q -- that Roger had approached you for a
6 loan?

7 A I didn't advise anyone on that side of --
8 in the family. You know, there were people that, you
9 know, like George Locke was aware of it. I think he
10 was there at the time it happened.

11 Q Who else would have been present when Roger
12 approached you for this loan?

13 A I think it was George Locke.

14 Q Did anyone else get -- now, was the
15 governor aware of the loan at any time, as far as you
16 know?

17 A No, not that I'm aware of.

18 Q Was Mrs. Kelly aware of the loan?

19 A Not that I'm aware of.

20 Q You don't know if Roger Clinton ever
21 advised Governor Clinton or Mrs. Kelly of the loan?

22 A I don't know that. I know I never said

1 anything to them.

2 Q Was Patsy Thomasson aware of this loan?

3 A She could have been.

4 Q Why do you believe she could have been
5 aware of the loan?

6 A Because she was my administrative assistant
7 at the time, and I doubt if she knew the details of
8 the loan, but she would have had -- she's the one
9 that I would have called and said Patsy, make me out
10 a check for Roger Clinton for \$8000.

11 Q You don't recall actually doing that?

12 A No, I do not. It would have been either
13 her or my secretary.

14 Q Do you know when Governor Clinton first
15 became aware that you had provided a loan for \$8000
16 to Roger?

17 A No.

18 Q But you never talked to him about the loan?

19 A I did not.

20 Q And he never asked you to make the loan?

21 A He did not.

22 Q Okay. Now, there came a time when Roger

1 was indicted for certain narcotics offenses; correct?

2 A Correct.

3 Q What was the nature of those narcotics
4 offenses, if you can recall?

5 A I don't recall. I think it was just more
6 use of cocaine.

7 Q Did you provide any assistance to Roger in
8 connection with the trial of that, of those charges?

9 A What do you mean? Legal fees?

10 Q Yes, to help with legal fees.

11 A No.

12 Q Did you suggest a lawyer?

13 A I'm sorry?

14 Q Did you suggest a lawyer for him?

15 A No.

16 Q Do you know the name of the lawyer he used?

17 A No.

18 Q Do you know the name of the lawyer who
19 handled your own criminal case?

20 A Bill Wilson, Dick Moore.

21 Q Bill Wilson and Dick Moore?

22 A That handled my case, yes.

1 Q You don't know whether they handled Roger's
2 case as well?

3 A I know they did not.

4 Q And you didn't pay any of the legal costs
5 of Roger's drug trial?

6 A I did not.

7 Q Did you ever discuss -- did you ever have
8 any discussions about Roger Clinton with his brother
9 other than the conversation about the job that you
10 can recall?

11 MR. COLE: That may or may not have
12 occurred since he couldn't remember whether it was
13 with Governor Clinton or Virginia.

14 MR. FEINSTEIN: Before you answer that, I
15 don't have a objection, but I missed part of the
16 question.

17 BY MR. GIUFFRA:

18 Q I'll restate it. Other than the
19 conversation that you testified to that may or may --
20 that may have involved either Governor Clinton or
21 Mrs. Kelly, did you have any other conversations that
22 you can recall with Governor Clinton about his

1 brother Roger?

2 A No.

3 Q And do you recall having any conversations
4 with Mrs. Kelly about Roger other than perhaps the
5 conversation about the job?

6 A Yes, I talked to her about Roger on
7 occasions.

8 Q What do you recall about those
9 conversations?

10 A Just when he was going through his trial,
11 you know, trying to console her and, you know, making
12 the plane available for her to go see him, and along
13 that line.

14 Q Do you recall when Roger had his trial was?

15 A I think it was '84-85.

16 Q And your problems were later?

17 A Right.

18 MR. GIUFFRA: Do you want to take a break
19 here?

20 (Whereupon, at 1:20 p.m., the deposition
21 was recessed, to be reconvened at 2:00 p.m. this same
22 day.)

AFTERNOON SESSION (2:15 p.m.)

Whereupon,

DANNY RAY LASATER

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

EXAMINATION (Continued)

BY MR. GIUFFRA:

Q Now, earlier today, Mr. Lasater, you testified that, on at least several occasions, you had contributed funds to Clinton gubernatorial campaigns?

A Yes.

Q Do you know when you may have contributed funds to Clinton gubernatorial campaigns?

A Well, I know I did in '84. I believe the other time that I testified with Billy Calhoun, I believe -- or I think that was '82. I think I probably did in '86.

Q Do you know of any other occasions when you might have contributed to Mr. Clinton's campaigns?

A No.

Q Do you have any idea how much money you

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might have contributed to Mr. Clinton's gubernatorial campaigns in total?

A No. '84, you know, I could give you a pretty good idea for '84 --

Q Okay.

A -- and that would be the year that I contributed the most. In '84 I believe that me and my family gave a total of \$8000.

Q Okay. Do you know how much you might have given in '82?

A It would have been less than that.

Q '86, any guess?

A Less than that. That would have been the largest year.

Q Could you give us an approximation for '82?

A If I had to guess, I'd say 4- to 5000.

Q And then '86, you would say 4- to 5000?

A No, I would guess in '86 it would have been considerably less, if any.

Q So you would estimate you probably gave Governor Clinton somewhere between 10- and \$15,000 to his campaigns, gubernatorial campaigns?

1 A Personally?

2 Q Yes.

3 A And within my immediate family, yes. There
4 was also besides that we as a group, I don't know if
5 it was, I think it was one of my companies bought
6 like a table at maybe \$500 a seat or \$1000 a seat at
7 a big fundraiser that was held at the Excelsior
8 Hotel, I think. And I think that might have been
9 eight to 12 seats.

10 Q So that would be somewhere between?

11 A 6- and \$12,000.

12 Q 6- and 12,000. Do you know what year that
13 would have been?

14 A I think that was '84 as well.

15 Q Okay. Can you recall any other
16 contributions that might have been made by any
17 company that you owned or controlled to a Clinton
18 gubernatorial campaign between '82 and '86?

19 A I can't recall any right now. I'm not
20 saying that there weren't any, but if they were, I
21 don't think they'd have been very significant.

22 Q You indicated that you had organized a

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1 fundraiser for Governor Clinton in 1984. Can you
2 recall any other fundraising events you might have
3 organized for Governor Clinton --

4 A No.

5 Q -- between 1982 and 1986?

6 A No.

7 Q Did you -- you testified about the '84
8 fundraiser. On any other occasion between '82
9 and '86, did you solicit funds for Governor Clinton's
10 gubernatorial campaigns from others?

11 A Other than the fundraiser?

12 Q Yes.

13 A I can't recall soliciting any funds for
14 Governor Clinton other than '84.

15 Q So you didn't make any phone calls to
16 people in connection with raising funds for him
17 between '82 and '86 except for calls you might have
18 made with regard to the '84 fundraiser?

19 A I don't believe I did, no.

20 Q The '84 fundraiser, you did make phone
21 calls to people to try to get them to come to the
22 fundraiser?

1 A Yes, I did.

2 Q And you sent out letters to people --

3 A Yes, I did.

4 Q -- to get them to come to the fundraiser?

5 A Right.

6 Q Between '82 and '86, did you send any
7 letters out on any other occasion to try to solicit
8 funds for Governor Clinton's gubernatorial campaigns?

9 A I don't recall doing it. I'm not saying I
10 didn't do it, but I don't recall doing it.

11 Q Did you make any contributions to any
12 inaugural activities of Governor Clinton between '82
13 and '86?

14 A I don't recall doing it, but I could have.

15 Q Do you recall making any contributions to
16 any public policy initiatives that he was behind
17 between '82 and '86 -- strike that question.

18 Did you make any other contributions
19 between '82 and '86 that you can recall to any entity
20 that was organized, set up by Governor Clinton to
21 promote his agenda as governor that you can think of?

22 A I recall contributing and I can't recall

1 when, what period of time, but I think it would have
2 been in that '82 to '86 time frame to a -- it was a
3 restoration of the old state house. And that was.

4 Q That's the state house that's next to the
5 Excelsior Hotel?

6 A Yes, it is.

7 Q Okay. Do you recall how much you might
8 have contributed to that?

9 A No, but I would guess around \$1000.

10 Q Can you recall any other contributions that
11 you might have made to any entity or agency or
12 organization that was organized by Governor Clinton
13 to support state projects or initiatives?

14 A Right now, sitting here today, I can't
15 recall any, but I would not be surprised if I had,
16 you know. But that's a long time ago, 12, 15 years
17 ago.

18 Q Did you ask any employees of either Lasater
19 & Company, Lasater Inc. or any of the other entities
20 that you owned or controlled to make contributions to
21 Governor Clinton?

22 A Yes.

1 Q When did you do that?

2 A I did that -- well, I did that at different
3 times, you know, if I would see someone, I would tell
4 them that we were having a fundraiser for Governor
5 Clinton, and I think it would be good if you could
6 contribute and if you could be there.

7 Q That would be the '84 fundraiser?

8 A Yes.

9 Q Can you recall any other occasions when you
10 might have asked Lasater affiliated employees to make
11 contributions to Governor Clinton's campaigns?

12 A To Governor Clinton's campaign?

13 Q Yeah.

14 A I really can't recall, but like I said, you
15 know, I could have.

16 Q Was there ever any instances in which
17 employees were told that, if they made contributions
18 to a Clinton gubernatorial campaign, that they would
19 be reimbursed by you or by any of your companies for
20 their contributions?

21 A No, I don't believe that ever happened.

22 Q Other than -- strike that.

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1 Were there any instances in which a Lasater
2 affiliated office was used to host a Clinton campaign
3 function that you can think of?

4 A No, I don't think that -- I don't think so.

5 Q Did --

6 A I don't recall.

7 Q Did you make contributions to other elected
8 officials in Arkansas between '82 and '86?

9 A Yes.

10 Q Do you recall some of the other officials
11 you might have contributed to?

12 A Judges, prior -- I wouldn't have
13 contributed to Bumpers, but I would have prior. You
14 know, Tommy Robinson for sheriff; you know, Larry
15 Dill for sheriff. Just I mean, you know, I don't
16 recall, but I know the door was -- somebody was at
17 the door a lot.

18 Q Why did you make the contributions to
19 Governor Clinton?

20 A Why?

21 Q Yeah.

22 A I felt he was the best man for the job.

1 Q Did you have any other reason for making
2 contributions to Governor Clinton's campaigns other
3 than the fact that you believed he was the best man
4 for the job?

5 A We were in the investment banking business,
6 and I didn't think it would hurt the business to
7 contribute to his campaign.

8 Q So you believed that making contributions
9 to Governor Clinton's campaigns might assist Lasater
10 & Company or some other Lasater affiliate in
11 obtaining state business?

12 MR. FEINSTEIN: I want to object to the
13 form of the question; mischaracterizes his
14 testimony. Did you hear the question?

15 THE WITNESS: Well, I thought I did.

16 BY MR. GIUFFRA:

17 Q I'll restate the question.

18 Did you believe that making contributions
19 to Governor Clinton's campaign would in any way
20 assist any company owned or controlled in obtaining
21 state bond business?

22 We can have her read the question back if

1 you want.

2 A Would you, please?

3 (The reporter read the record as requested.)

4 MR. FEINSTEIN: Could you also read back his
5 answer to the previous question.

6 THE WITNESS: I had no reason to assume
7 that it would aid us. I knew that it would not hurt
8 us.

9 BY MR. GIUFFRA:

10 Q Did you think it would hurt a Lasater owned
11 or controlled entity in obtaining bond business from
12 the state if you did not make a contribution to
13 Governor Clinton's campaigns?

14 A No, I don't think it would have.

15 Q So you think that, as far as you knew, that
16 whether a company made a contribution -- strike that.

17 So am I correct that it's your testimony
18 that you believe it wouldn't have made any difference
19 one way or the other in obtaining state bond business
20 whether you or employees of a Lasater owned or
21 controlled company made contributions to Governor
22 Clinton's gubernatorial campaign?

1 MR. COLE: I want to object for the
2 record. I think this question has reached a very
3 argumentative point. You may not like the answers
4 the witness has given to your questions at this
5 point, but to continue to ask him the same question
6 over and over in different ways to force him to give
7 a different answer I think is argumentative. I'll
8 leave it to Mr. Lasater's counsel how he proceeds.

9 MR. GIUFFRA: I'm entitled to an answer to
10 the question and I'm asking a slightly different
11 question each time.

12 MR. FEINSTEIN: I opt to object to the form
13 of the question. I think it may also be
14 argumentative, but it's certainly compound and I'm
15 not sure if there's going to be a clear answer to
16 that question.

17 If you understood it and think you can
18 answer it, by all means, answer it.

19 MR. GIUFFRA: We can have the court
20 reporter read it back. I don't think it was unclear.

21 MR. FEINSTEIN: I didn't think it was
22 unclear. I said it was compound.

1 THE WITNESS: Would you read the question
2 back, please?

3 (The reporter read the record as requested.)

4 MR. FEINSTEIN: So he's asking you,
5 Mr. Lasater, if he's correct that that was your
6 testimony.

7 THE WITNESS: Yes.

8 BY MR. GIUFFRA:

9 Q Okay. So you don't think the fact that you
10 made a contribution would have any affect on whether
11 you received bond business from the state?

12 MR. COLE: Same objection for the record.

13 MR. FEINSTEIN: I think we're also -- asked
14 and answered is another way of phrasing that
15 objection.

16 MR. COLE: Better, thank you. Asked and
17 answered several times.

18 MR. FEINSTEIN: Well, if you want him to
19 answer it again.

20 THE WITNESS: I believe that Lasater &
21 Company would have received the same amount of bond
22 business if they did or did not contribute to the

1 Clinton campaign. And I base that on the fact that
2 Stephens Inc. who did the majority of the business
3 when Frank White was governor contributed heavily to
4 Frank White, supported Frank White and fought the
5 election of Bill Clinton and Bill Clinton still gave
6 them a large share of the state business.

7 BY MR. GIUFFRA:

8 Q When you had your conversation with
9 Governor Clinton, I think it was, you said it was in
10 1994 -- 198 --

11 MR. FEINSTEIN: Hold on a second. Were you
12 finished with your answer?

13 THE WITNESS: Yes.

14 BY MR. GIUFFRA:

15 Q You said it was 1984, I believe, when you
16 came and --

17 A I can't remember it was. It's in that
18 '82-86 time frame.

19 Q '82-86 time frame when you went to the
20 capitol and raised the question of moving you guys
21 into the top tier with Stephens?

22 A No, I think I testified that I asked to be

1 given a larger portion.

2 Q Of state bond business?

3 A Right.

4 Q Did you raise the fact that Stephens had
5 supported Frank White and not Bill Clinton during
6 your conversation with Bill Clinton?

7 A No.

8 Q In 1984 when you -- strike that.

9 Did you have any expectation of receiving
10 any state bond business when you organized the 1984
11 fundraiser for Governor Clinton?

12 A Repeat the question again, please.

13 Q When you organized the 1984 fundraiser for
14 Governor Clinton, did you have any expectation that
15 you would receive any state bond business because you
16 had organized that fundraiser?

17 MR. FEINSTEIN: "Because" wasn't there the
18 first time.

19 THE WITNESS: No. No.

20 BY MR. GIUFFRA:

21 Q Did you ever discuss with either Governor
22 Clinton or any member of his staff that you or anyone

1 else would receive bond business because you did or
2 did not make a political contribution to the
3 governor's campaigns?

4 A No.

5 Q Mr. Lasater, when was the last time you
6 spoke to Bill Clinton?

7 A I know that it was not after 1986. It
8 could have been as far as 1985.

9 Q When was the last time you spoke to Roger
10 Clinton?

11 A I spoke to Roger right after his son was
12 born, whenever that would be. A year or so ago. He
13 called to tell me that he had a son.

14 Q Anything else discussed during that
15 conversation?

16 MR. COLE: That is -- I'm going to object
17 to that. I mean, it's so -- there is no bond
18 business between ADFA and Lasater Company after
19 1986. What he talked to Roger Clinton about when
20 Roger Clinton called to tell him he had a son is just
21 so beyond the scope of this inquiry that it's
22 inconceivable to me that you would assert this is

1 within what we're supposed to be investigating.

2 MR. GIUFFRA: We don't know what they
3 discussed, and if they discussed --

4 MR. COLE: Did you discuss anything about
5 ADFA or bond business with the state of the Arkansas
6 when Roger Clinton called?

7 THE WITNESS: No.

8 BY MR. GIUFFRA:

9 Q Did you discuss anything involving any
10 investigation involving Whitewater, Madison or
11 anything related to the subject matter specified in
12 Senate Resolution 120 during the conversation with
13 Roger Clinton?

14 A I don't think so. I'm not sure what the
15 whole scope of 120 is, but if it doesn't include
16 personal conversations with Roger and I, I did not.

17 Q Did the loan that you made to Roger Clinton
18 back in the mid-'80s come up?

19 A No.

20 Q Since January 1, 1992, have you had any
21 discussions with any -- strike that.

22 I'll just do it in two questions.

1 During the 1992 presidential campaign, did
2 you have any discussions with any agent or employee
3 of the campaign?

4 MR. COLE: If you have any idea who those
5 people are.

6 MR. FEINSTEIN: Thank you. Just for
7 clarification, there is a real big foundation problem
8 there again. I'll object to the foundation of the
9 question. If you know who the agents or employees of
10 the campaign were, more power to you.

11 THE WITNESS: Would you repeat the
12 question?

13 BY MR. GIUFFRA:

14 Q I'll rephrase the question. I'm trying to
15 ask a broad question. I'll proceed to see quickly as
16 I can.

17 MR. FEINSTEIN: I appreciate that, but that
18 really is a question that there is no way to answer
19 that.

20 MR. GIUFFRA: I'll be happy to rephrase
21 that.

22 BY MR. GIUFFRA:

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1 Q During the 1992 presidential campaign, were
2 you contacted by anyone who, at least as far as you
3 knew at the time, was an agent or employee of the
4 campaign with regard to your relationship with Bill
5 Clinton?

6 A No.

7 Q Or Roger Clinton?

8 A No.

9 Q Since January 20, 1993, have you spoken
10 with anyone at the White House --

11 A Yes.

12 Q -- about any subject?

13 Who have you spoken to at the White House?

14 A Patty Cogdale.

15 Q Who is Patty Cogdale?

16 A She's a staffer there.

17 Q And what did you discuss with Patty
18 Cogdale?

19 A I called for Patsy Thomasson. Patsy was
20 not in and I told Patty Cogdale to tell Patsy that
21 Chuck Collins, a friend of ours, had died.

22 Q Have you spoken with anyone else at the

1 White House --

2 A No.

3 Q -- since January 20, 1993?

4 A No.

5 Q Have you spoken to Ms. Thomasson since
6 January 20, 1993?

7 A When was the election?

8 Q The election would have been, I think,
9 November 6, '92 or maybe November 8th, I can't
10 recall.

11 MR. FEINSTEIN: Close enough.

12 THE WITNESS: No.

13 BY MR. GIUFFRA:

14 Q Did you speak to Ms. Thomasson during the
15 '92 campaign?

16 A No.

17 Q Do you know -- did you speak to --

18 A Well, wait, wait. Patsy, we had a
19 Christmas party for my staff and friends and family,
20 roughly the 15th of December, 1992 and Patsy was
21 invited and she stopped by for about an hour --

22 Q Did you --

1 A -- but that's the last time I've seen her
2 or spoke to her.

3 Q Did you speak to Betsey Wright during the
4 92 presidential campaign?

5 A No.

6 Q Have you spoken to Bob Nash since January
7 1, 1992?

8 A No.

9 Q In making contributions to Governor
10 Clinton's gubernatorial campaigns, was it a
11 consideration that such contributions would at least
12 allow the governor to know who Dan Lasater was?

13 A I think he knew who I was.

14 Q Did you think that making contributions
15 would in any way give you any kind of access to the
16 governor or his staff?

17 A I had no reason to believe that.

18 Q Did you -- now, were there occasions
19 between '82 and '86 when you sent letters to Governor
20 Clinton?

21 A Yes.

22 Q Did you in those letters make any

1 recommendations to him about appointments to state
2 positions?

3 A I think I could have. I think I did, yes.

4 Q Do you recall the circumstances surrounding
5 any of the instances in which you made a
6 recommendation to Governor Clinton with regard to the
7 appointment of someone to a state position?

8 A No.

9 Q Let me show you a letter that bears Bates
10 number 26479. It's a letter from Dan Lasater to Bill
11 Clinton, dated January 23, 1985. Have you seen this
12 letter in the last year or so?

13 A No.

14 Q Do you recall -- why don't you take some
15 time and read it.

16 (Witness reviewed the document.)

17 THE WITNESS: I don't recall the letter,
18 but that's certainly my signature and that's
19 certainly my stationary. But this was 11 years ago.

20 BY MR. GIUFFRA:

21 Q Okay. There's a discussion here of a
22 January 4, 1985 meeting between yourself and Bill

1 Clinton. Do you recall that meeting?

2 A No.

3 Q Would this meeting be included within the
4 11 meetings we've identified previously in the course
5 of your deposition here today?

6 A I'm sorry. Reask the question.

7 Q Would this meeting of January 4, 1985 be
8 included among the 11 meetings that you've identified
9 previously here today, or is this an additional
10 meeting?

11 A It could be either one.

12 Q But you have no recollection of speaking to
13 the governor --

14 A No.

15 Q -- on January 4, 1985?

16 A No.

17 Q Now, do you know a man named Donald Spears?

18 A Yes.

19 Q Is he a friend of yours?

20 A No.

21 Q How do you know Donald Spears?

22 A He owns a -- first of all, he was a friend

1 of Dan Moudy who was our in-house counsel at Lasater
2 & Company. Second, he owned a title company in
3 Malvern, Arkansas and we used, owned a time share
4 development in Hot Springs by the name of Emerald
5 Isle. And we used his title company -- it was my
6 understanding that we used his title company to do
7 the title work for that real estate development.

8 Q Did you recommend the appointment of Donald
9 Spears by Governor Clinton to the Arkansas Housing
10 Board?

11 A I could have. I don't know.

12 Q In reading --

13 A I don't recall doing that.

14 Q From reading this letter, does it appear to
15 you that you may have recommended to Governor Clinton
16 that he appoint Donald Spears?

17 A It says "To confirm our conversation of
18 January 4, it is my understanding that you will be
19 appointing Donald Spears, an attorney in Malvern, to
20 the Arkansas Housing Board and his appointment will
21 endure any change in structure of the agency."

22 Well, I can tell you first off that I

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1 didn't write this letter. I can guarantee it's my
2 signature, but a staff person wrote this letter.

3 Q You just don't recall one way or the other
4 whether you may have recommended Don Spears to the --

5 A No, but it would not surprise me if I did.

6 Q Why would it not surprise you if you made
7 that recommendation?

8 A Because I would have had some type of
9 relationship with him.

10 Q With "him," being Bill Clinton or Don
11 Spears?

12 A Don Spears. And it could have been Dan
13 Moudy that asked me to write this letter on behalf of
14 his friend, but I knew Donny Spears, and I knew that
15 we'd used his title company.

16 Q Third paragraph of the letter says "Members
17 of my staff have been working with Bill Woodyard and
18 other members" -- "others in that firm in an effort
19 to help work out financing details to assist you in
20 your efforts to advance economic development in the
21 state. If they have failed in furnishing the
22 information you need or if you need additional

1 information, please do not hesitate to call me or
2 have Maurice call Patsy."

3 Who is Bill Woodyard, W-o-o-d-y-a-r-d?

4 A He's an attorney.

5 Q Was he a state employee?

6 A No.

7 Q What's the firm that's being referred to?

8 A I'm sorry?

9 Q It says "members of my staff have been
10 working with Bill Woodyard."

11 A I think it's a law firm. I think he was
12 with the Mitchell firm, if I'm not mistaken.

13 Q Did Mr. Woodyard lobby on behalf of any
14 Lasater controlled entity with regard to obtaining
15 business with the state?

16 A I don't recall him doing so.

17 Q Do you know what this reference to "effort
18 to help work out financing details to assist you in
19 your efforts to advance economic development in the
20 state" refers to?

21 A No.

22 Q Now Maurice, who is Maurice?

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1 A Maurice Smith.

2 Q He was the governor's chief of staff at one
3 point?

4 A I'm not sure.

5 Q Or secretary?

6 A He was somehow involved. I'm not sure how.

7 Q Did you have any dealings with Maurice
8 Smith between '82 and '86?

9 A I think I sold him a couple horses. No.
10 With state business you mean?

11 Q Yes.

12 A No. But he's a friend of Patsy's.

13 Q Do you know whether Ms. Thomasson ever
14 spoke to Mr. Smith about state bond contracts between
15 '82 and '86?

16 A I don't know.

17 Q Do you think she may have?

18 A I wouldn't want to speculate.

19 Q Do you know whether -- strike that.

20 The fourth paragraph says "With the
21 legislature now in town I know your schedule is full,
22 but I always enjoy the opportunity to visit with you

1 and would invite you to come by for lunch or a drink
2 any time. Too, let me offer our offices, our staff,
3 or our resources to you for the entertainment of any
4 guests from the state of Arkansas or outside of the
5 state."

6 Do you know if the governor ever took you
7 up on either of the offers set out in this paragraph?

8 A I don't recall him taking us up on that.

9 Q Why did you include these offers in the
10 letter you sent to the governor dated January 23,
11 1985?

12 A Why?

13 Q Yeah.

14 A Like I said, I don't remember writing this
15 letter. I don't have any idea.

16 Q And was there any connection between the
17 offers and any kind of state contracts that your
18 companies might seek?

19 A No, not that I'm aware of.

20 Q I'd like to show you a letter that bears
21 Bates stamps DKSJ 27573 through 27574. I'll show
22 that you this is a letter from you to Governor

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1 Clinton dated February 15, 1985. It's also signed by
2 Rick Knox who, I gather, is the president of Lasater
3 & Company. Do you recall writing this letter to
4 Governor Clinton?

5 A No, but that's my signature.

6 Q Why don't you take a look at the letter.

7 A But it looks to me like Rick Knox has
8 signed the letter as well. Looks like he probably
9 wrote the letter and asked me to help, to sign it,
10 put my name on it.

11 Q You would have read it before you signed
12 it, wouldn't you?

13 A Certainly -- well, I'm not sure. I'm not
14 sure. It's just according to how busy I was.

15 MR. FEINSTEIN: Do you want him to read it
16 now?

17 MR. GIUFFRA: Why don't you read the
18 letter.

19 (Witness reviewed the document.)

20 THE WITNESS: Okay.

21 BY MR. GIUFFRA:

22 Q Let me just direct your attention first to

1 the fourth paragraph. It says "We have discussed the
2 appointment of Donny Spears to the Arkansas Housing
3 Board. And I have confirmed our understanding
4 regarding the appointment in my letter of January 23,
5 1985. And I want to again reaffirm our interest and
6 desire in seeing Mr. Spears in this position."

7 Does that in any way refresh your
8 recollection about your interest in seeing Mr. Spears
9 appointed to the Arkansas Housing Board?

10 A I said that I would not be surprised
11 because, you know, Dan Moudy, who is mentioned in
12 this letter, who was counsel to our firm, was a good
13 friend of his, and he did some work for us in Hot
14 Springs. And, you know, this doesn't -- it doesn't
15 surprise me that we would have written such a letter.

16 Q In viewing this letter and the letter of
17 January 23, which is referenced in this letter, do
18 you believe that you probably did recommend the
19 appointment of Mr. Spears to the Arkansas Housing
20 Board?

21 A I think -- yeah, I think that --

22 Q That's a reasonable reading of the two

1 letters?

2 A Right.

3 Q Now, what regulatory role would the
4 Arkansas Housing Board have with regard to bond
5 underwriting contracts?

6 A You are getting into the technical side
7 now, and I'm not --

8 Q What was your understanding of the role of
9 the Arkansas Housing Board with regard to bond
10 contracts?

11 A Repeat the question.

12 Q What was your understanding of the role of
13 the Arkansas Housing Board with regard to bond
14 contracts, state bond contracts?

15 A That was a supervisory state-appointed
16 committee.

17 Q Did you have an understanding that the
18 Arkansas Housing Board would approve the issuance,
19 the making of various bond issues by the Arkansas
20 Housing Development Authority?

21 A It was my understanding that the
22 decisionmaking process was mostly with the director,

1 who I think his name was Wooten --

2 Q Wooten Epes?

3 A Wooten Epes, yes.

4 Q Did you have any contact with Wooten Epes
5 between '82 and '86?

6 A You know, I might have met him, but I
7 didn't have a personal, social or business
8 relationship with him.

9 Q Did he ever fly on any Lasater planes?

10 A No, not that I'm aware of.

11 Q Did any members of the Arkansas state
12 police ever fly on any Lasater planes?

13 A Yes.

14 Q Who might have flown on a Lasater plane?

15 A I don't recall who it was, but there was
16 someone with the state police, Gerald Hanahs who is a
17 friend of mine, he was a pitcher with the Los Angeles
18 Dodgers. And he and Jim Palmer were friends, and
19 St. Louis was playing in the World Series at
20 St. Louis. And we, Gerald Hanahs, myself, Larry Dill
21 who was deputy sheriff -- and it was a state trooper
22 and I can't recall his name. And then Jay Campbell,

1 who was with the sheriff's department, and maybe
2 George Locke, a couple -- but I think there was one
3 state trooper. But I don't remember his name. I
4 think it was a captain.

5 Q Were any of those state police officials in
6 any way involved in the bond underwriting contracts
7 involving the state police radio network?

8 A Not that I'm aware of.

9 Q Do you recall any other instances in which
10 members of the state police would have flown in a
11 Lasater plane?

12 A No.

13 Q Turning back to the Arkansas Housing
14 Development Authority, did Mr. Epes report to the
15 members of the Arkansas Housing Board, as far as you
16 knew?

17 A I'm not real sure, but I think that would
18 be the process.

19 Q As far as you knew, did the Arkansas
20 Housing Board have any kind of authority with regard
21 to bond issues made by the Arkansas Housing
22 Development Authority?

1 A I think they approved or disapproved what
2 the staff brought to them, but I'm not 100 percent
3 sure on that.

4 Q Now, would that include who might be the
5 underwriters in connection with bond issues by the
6 Arkansas Housing Development Authority?

7 A That would be my understanding.

8 Q And so in recommending Mr. Spears, did you
9 have any belief that perhaps he might increase the
10 amount of bond business that Lasater & Company
11 received from the Arkansas Housing Development
12 Authority?

13 A Repeat the question, please.

14 Q In recommending the appointment of
15 Mr. Spears to the Arkansas Housing Board, did you
16 think that Mr. Spears might -- and I use the word
17 "might" -- have some role in increasing the amount
18 of bond business that Lasater & Company received from
19 the state of Arkansas?

20 MR. FEINSTEIN: Before you answer that
21 question, let me just note an objection to the form
22 of the question. He has testified that he doesn't

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1 have independent recollection of whether or not he
2 made that recommendation, and so in effect, you are
3 asking him to speculate about what may have been in
4 his mind at the time.

5 If that's what you want to put on the
6 record, I'm not going to tell him not to do that, but
7 that's really what you are asking him to do.

8 MR. GIUFFRA: Well, I mean, the letters
9 speak for themselves, and there are additional
10 letters from Mr. Lasater's staff.

11 MR. FEINSTEIN: That's right, the letters
12 speak for themselves and he doesn't recall the
13 circumstances, so what does this add? You can ask
14 him. I'm not going to tell him not to answer the
15 question, but I think the record needs to be clear
16 that it's calling for speculation at this point.

17 BY MR. GIUFFRA:

18 Q You have absolutely no recollection of
19 anything having to do with the appointment of Don
20 Spears to the Arkansas Housing Board or ADFA?

21 A I do not recall being involved in anything
22 with Donny Spears, but, like I stated earlier, it

1 doesn't surprise me that I would have written on his
2 behalf.

3 MR. COLE: Is it possible that possibly you
4 recommended him because you thought he might be a
5 good appointment to the board?

6 THE WITNESS: Could be.

7 MR. COLE: I know it sounds unlikely, but
8 we might as well put that possibility, if we're going
9 to speculate, put that possibility on the record.

10 THE WITNESS: You know, Robert, I didn't
11 write this letter; okay? I can tell you that. You
12 can tell, the letters I write that are about a
13 paragraph, you know, I don't write long letters. So
14 I know that I did not write this letter. I do know
15 that I signed this letter.

16 BY MR. GIUFFRA:

17 Q Let's focus on some other things in the
18 letter. First paragraph. This indicates that you
19 had some sort of a meeting with Governor Clinton
20 sometime around February 1985. Would you agree with
21 that, first paragraph?

22 A I would think that would be referring to

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1 the meeting of January the 4th since it's only two
2 weeks later. But, you know, I didn't meet with
3 Governor Clinton on a weekly basis.

4 Q No, no, this is the letter dated February
5 15 which is almost six weeks after the January 4
6 meeting.

7 A No, it sent -- January 23rd -- oh.

8 MR. FEINSTEIN: And that refers to
9 January 4.

10 THE WITNESS: Right, I don't recall.

11 BY MR. GIUFFRA:

12 Q You don't know if there was an additional
13 meeting --

14 A No, I don't.

15 Q -- between January 4 and February 15th
16 between yourself and Governor Clinton?

17 A No, but I would be surprised if there was.

18 Q There is a discussion in the next paragraph
19 about "taking positive steps to set up specific lines
20 of communication to enable both our understanding and
21 to make sure those lines are kept open and
22 functioning."

1 Do you recall any concern you might have
2 had about lines of communication with the governor?

3 A No. This letter appears to me to be
4 written by Michael Drake.

5 Q Did you ever have any discussions with
6 Mr. Drake in which he complained about the lack of
7 communication between Lasater & Company and the
8 governor's office?

9 A I don't recall any such meetings.

10 Q Now, there's a further discussion in the
11 third paragraph about Lasater & Company being advised
12 of financing proposals affecting the state of
13 Arkansas. Do you recall any discussion with either
14 Governor Clinton or any member of your staff about
15 that subject?

16 A No. Like I said, I didn't write this
17 letter. I definitely did sign it, though.

18 Q Now there's a further discussion in the
19 last paragraph on the first page of the letter of
20 certain Arkansas Housing Development Authority
21 financing contracts. Do you recall discussing those
22 financing contracts with anyone?

1 A No.

2 Q Do you recall any discussion of E.F. Hutton
3 in connection with those contracts?

4 A No. I know, you know, we were involved
5 with Hutton.

6 Q Let's go to the next page. All right.
7 Second full paragraph. "We would be more comfortable
8 if you would take the opportunity or ask someone on
9 your staff to take the opportunity to apprise me or
10 my staff of any actions by you or your staff prior to
11 any public announcements so that we will not be
12 surprised or in substance embarrassed because of the
13 announcement."

14 Do you know what that could refer to?

15 A No, I don't recall it.

16 Q Now, Don, is it Moudy?

17 A Moudy. It's Dan.

18 Q Dan. Excuse me. Was he a lobbyist for you
19 guys?

20 A No, he was an attorney.

21 Q Did he do any lobbying of state officials
22 on behalf of Lasater & Company?

1 A I don't think so.

2 Q Okay. Well, third full paragraph, second
3 page, "I believe it would serve us both well to have
4 regular monthly meetings between the two of us to
5 discuss the effects of the economy on Arkansas."

6 Do you recall any discussion of that with
7 Governor Clinton?

8 A No.

9 Q Now, let's go back to this letter,
10 January -- this letter of January 23 which references
11 the January 4 meeting. I'd like to show you another
12 document bearing Bates number 16011. This is a
13 schedule of Governor Clinton, dated January 10,
14 1985. Do you recall meeting with Governor Clinton on
15 January 10, 1985 at 6:00?

16 A You got to be kidding me.

17 MR. FEINSTEIN: Let me take a shot at that
18 one. I'm going to guess your answer is no.

19 THE WITNESS: Right.

20 BY MR. GIUFFRA:

21 Q Let me show you this schedule. Maybe it
22 will refresh your recollection.

1 A Whose schedule is this?

2 Q This is Governor Clinton's schedule. It
3 appears that you had a meeting with yourself and some
4 E.F. Hutton people, the governor, Betsey Wright, and
5 Maurice Smith on January 10, 1985.

6 MR. FEINSTEIN: We'll accept your
7 representation that BW and MS --

8 MR. COLE: I'd like to look at that
9 document. I'd like to know how we know this is a
10 schedule or that these meetings actually occurred.
11 It is a schedule prepared before the fact.

12 MR. GIUFFRA: I said it appears.

13 MR. COLE: I know, but --

14 MR. O'CALLAGHAN: It says as of 4:30 p.m.
15 on the day before.

16 MR. COLE: That's my question. So do you
17 have any way to know what happened on the day before
18 actually happened?

19 MR. GIUFFRA: You know, if you would let me
20 ask him the question.

21 MR. COLE: I just want to make sure he
22 knows what he's looking at.

1 MR. FEINSTEIN: And I want to make sure
2 whether you have any independent knowledge of the
3 initials. I mean, I'm prepared to accept your
4 representation as to what they signify, but the
5 document doesn't say what they are. If you want him
6 to assume that it's what BW and MS are, that's fine,
7 but let's get that clear on the record.

8 MR. O'CALLAGHAN: Why don't we go off the
9 record for a second.

10 (Discussion off the record.)

11 MR. FEINSTEIN: Is there a question
12 pending?

13 MR. GIUFFRA: Do we have a question
14 pending -- I know what the question was.

15 BY MR. GIUFFRA:

16 Q Do you have any recollection of attending
17 this meeting?

18 A No.

19 Q Let me show you a document that bears Bates
20 numbers 27487 to 27562. It says "presentation to the
21 state of Arkansas regarding financing structures and
22 investment banking services." It's dated January 10,

1 1985, and it says E.F. Hutton & Company Inc., Lasater
2 & Company. It's a letter written on Hutton Public
3 Financial Group stationery to Governor Clinton, also
4 dated January 10, 1985.

5 Just take a look at this document. I want
6 to know if you have any recollection of ever seeing
7 it before.

8 (Witness reviewed the document.)

9 BY MR. GIUFFRA:

10 Q Mr. Lasater, have you ever seen the
11 document bearing dates number 27487 through 27566
12 before?

13 A I'm sure I have. I don't recall it.

14 Q Why are you sure that you've seen it?

15 A The contents of it --

16 Q What about the contents of it makes you
17 believe you've seen it before?

18 A Well, I recall vaguely attending a meeting
19 at the Legacy Hotel with E.F. Hutton.

20 Q And Governor Clinton?

21 A Well, I wasn't -- until now I wasn't -- I
22 wouldn't have thought that the governor would have

1 been there, but apparently he was. I don't recall
2 him being there.

3 Q But you recall attending a meeting, with
4 E.F. Hutton at least, at this hotel?

5 A Yes.

6 Q Why do you recall attending a meeting with
7 E.F. Hutton?

8 A Michael Drake asked me -- the best I
9 recall, Michael Drake asked me to attend the meeting.

10 MR. FEINSTEIN: What difference does it
11 make why he recalls it?

12 BY MR. GIUFFRA:

13 Q This was a meeting at the Legacy Hotel?

14 A Yes.

15 MR. FEINSTEIN: To clear things up, I
16 directed his attention to the 5:45 entry here and
17 that flashed on some things that he and I had talked
18 about previously.

19 THE WITNESS: Legacy Hotel.

20 BY MR. GIUFFRA:

21 Q And so you recall meeting with the E.F.
22 Hutton people at the Legacy Hotel?

1 A Yes, I do.

2 Q And now appears that, having looked at the
3 schedule that the governor -- you definitely attended
4 the meeting at the Legacy Hotel?

5 A I did?

6 Q Yes.

7 A Yes.

8 Q You don't recall Bill Clinton being there?

9 A No, I don't. But I'm not disputing it.

10 Q Do you recall how many people might have
11 been at this meeting?

12 A Eight or 10 or 12.

13 Q Do you recall what was discussed at the
14 meeting? If you want, we can turn to page --

15 A No, I really don't. I know we were, you
16 know, trying to get business probably.

17 Q Let's turn to 27490.

18 A Okay.

19 Q This appears to be a table of contents for
20 this large report -- or presentation, excuse me. Why
21 don't we tick through the subjects?

22 A Okay.

1 Q Now, were you doing sort of a joint venture
2 or you were at least both acting as underwriters,
3 Lasater and E.F. Hutton, with regard to the state of
4 Arkansas?

5 A That's what I would assume.

6 Q Do you recall that at all?

7 A I knew we did some business.

8 Q With E.F. Hutton?

9 A Right.

10 Q And they were maybe the lead manager and
11 you were part of the syndicate?

12 A Right. And other people would usually be
13 added.

14 Q And do you recall doing some work with
15 E.F. Hutton with regard to housing financing by the
16 state of Arkansas?

17 A I don't. I don't have any specific
18 recollection of that, no.

19 Q How about police communication financing?

20 A Yes, I do recall that.

21 Q What do you recall about police
22 communication financing?

1 A That Lasater, Raney and Hutton underwrote
2 the state police radio or communication system.

3 Q That was something that was done through
4 the Arkansas state police department; right?

5 A I believe so. I believe so. I wasn't
6 involved in the presentation.

7 Q What do you recall, if anything, about the
8 underwriting of this police communication bond issue?

9 A That we won it.

10 Q Do you recall anything more?

11 A No. I mean, very little more. I mean, it
12 was -- we didn't win many, and it was one of them we
13 won.

14 Q Do you know why you won this one?

15 A No. Had the best package, I assume.

16 Q Do you recall having any communication with
17 Governor Clinton about the police communication bond
18 underwriting contract?

19 A No, I do not.

20 Q Do you recall having any communication with
21 any members of the governor's staff with regard to
22 the police communication bond underwriting contract?

1 A No.

2 Q Do you recall any communication you might
3 have had with anyone about the police communication
4 bond underwriting contract?

5 A Outside my staff?

6 Q Yes.

7 A I know Hutton was in our office a few
8 times, you know, and I'm sure it was mentioned then.

9 Q Do you recall any conversations you had
10 with members of your staff about the police
11 communication bond underwriting contract?

12 A I remember that Michael would keep me
13 updated every week or so.

14 Q About the progress of your efforts to
15 get --

16 A Or our opportunity to win it.

17 MR. FEINSTEIN: For the record, is that a
18 reference to Michael Drake?

19 THE WITNESS: Yes.

20 BY MR. GIUFFRA:

21 Q What do you recall about communications you
22 had with Michael Drake about the police radio

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1 contract, bond underwriting contract?

2 A I don't remember any of the details. I
3 just remember him -- I just remember general
4 discussions with him about it.

5 Q Between '81 and '82 when Governor Clinton
6 was out of office, are you aware of any contacts,
7 meetings, communications other than those you
8 testified to here today --

9 A I don't recall --

10 MR. FEINSTEIN: Wait. Let him finish the
11 question.

12 BY MR. GIUFFRA:

13 Q Involving Bill Clinton and any agent or
14 employee of a Lasater affiliated company.

15 MR. FEINSTEIN: You have that question in
16 mind? There's a lot in that question.

17 MR. GIUFFRA: There is. I apologize.

18 THE WITNESS: Could you repeat it?

19 BY MR. GIUFFRA:

20 Q I can maybe do it the short way.

21 MR. FEINSTEIN: If the answer is no, you
22 don't recall, it will probably cover a lot of ground

1 with one answer.

2 BY MR. GIUFFRA:

3 Q Between '81 and '82 when Governor Clinton
4 was out of office, do you know whether any agent or
5 employee of a Lasater affiliated company contacted
6 Bill Clinton?

7 MR. FEINSTEIN: About anything?

8 BY MR. GIUFFRA:

9 Q About any subject.

10 A The only thing that I've been told about
11 and don't recall is, in that period of time, it's my
12 understanding from George Locke that Bill Clinton
13 contacted him and wanted to get together with the
14 three owners of the firm.

15 Q Okay. And you've already testified to
16 that.

17 A Right.

18 Q Lasater & Company, as far as you know,
19 never retained Bill Clinton to provide any legal
20 services?

21 A No.

22 Q Or Hillary Clinton to provide any legal

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1 services?

2 A No.

3 Q Let's go back to the state police
4 communication underwriting contract. What do you
5 recall about communications that you had with
6 Mr. Drake about that contract?

7 A I don't recall anything other than that I
8 knew that we were pursuing it.

9 Q Did he indicate to you in any way that he
10 had contacted Governor Clinton or a member of
11 Governor Clinton's staff about the contract?

12 A Not that I recall.

13 Q Do you recall any discussion between
14 yourself and Mr. Drake in which Bill Clinton's name
15 came up in connection with that bond underwriting
16 contract?

17 MR. FEINSTEIN: Just for the record, I
18 mean, it's a fair question, but are you excluding any
19 discussions that may have occurred at this meeting at
20 the Legacy Hotel, or are you including that in this
21 line of questions?

22 MR. GIUFFRA: I'll include everything.

1 THE WITNESS: I don't recall any
2 discussions with Michael Drake about Governor Clinton
3 and the highway -- and the state police
4 communication --

5 BY MR. GIUFFRA:

6 Q Contract bond underwriting contract?

7 A Right. I'm not saying it didn't happen,
8 but, as I sit here today, I don't recall it.

9 Q I understand. People's memories fade.

10 A After --

11 Q 10 years.

12 A -- you get to 50, they fade faster.

13 Q All right. Do you recall any discussion
14 during any meeting with E.F. Hutton of correctional
15 facilities financing for the state of Arkansas?

16 A That does seem like there was some
17 conversation about that, but I don't remember -- I
18 don't recall any details.

19 Q Any discussion of patrol car financing?

20 A I don't recall any patrol car financing.

21 Q Any discussion of state health care
22 financing?

1 A I don't recall any conversation of state --

2 Q Do you recall any discussion of water and
3 sewer financing?

4 A That rings a bell, but, you know, there was
5 a lot of water and sewer business back then. I don't
6 recall any of it, if it was related to E.F. Hutton or
7 the state.

8 Q You never did any work in connection with a
9 project known as Castle Grande, did you? Real estate
10 project known as Castle Grande?

11 A No, thank goodness. I don't know how I
12 missed that one, but I did. Or Campobello or
13 anything, I've missed all those.

14 Q Maple Creek?

15 A Maple Creek, I missed them all. But
16 someone tried to sell us an interest in Campobello.
17 Isn't that the one in the island?

18 MR. COLE: Yes, off Maine.

19 THE WITNESS: I think Jerry Jones or
20 Sheffield Nelson or somebody tried to sell us a piece
21 of that.

22 MR. COLE: Maybe we'll ask you about that a

1 little later. We have a huge interest in that.

2 THE WITNESS: I didn't buy.

3 MR. COLE: The government did, at a profit
4 to them.

5 THE WITNESS: Oh, I understand they did.

6 BY MR. GIUFFRA:

7 Q Let me show you another document bearing
8 Bates number 27473 and then another page 27478. It's
9 a two-page document. Do you recall ever seeing any
10 of these documents?

11 MR. FEINSTEIN: Hold on for one second,
12 we're still looking at it.

13 (Witness reviewed the document.)

14 MR. FEINSTEIN: Really just for
15 clarification, these two documents are not
16 consecutively numbered.

17 MR. GIUFFRA: Yeah, I understand that.

18 MR. FEINSTEIN: And I just --

19 MR. GIUFFRA: He can identify if he has
20 seen either document.

21 MR. FEINSTEIN: I'm prepared to accept your
22 representation that they belong together, but it's

1 not clear from the numbers they do.

2 THE WITNESS: I don't recall ever seeing
3 them, but, you know, I'm not saying that I haven't
4 seen them.

5 BY MR. GIUFFRA:

6 Q Okay. But you do recall a meeting at the
7 Legacy Hotel sometime in January of '85?

8 A Well, I recall a meeting at the Legacy
9 Hotel. I don't recall when it was.

10 Q You don't recall Bill Clinton being there?

11 A No, I don't.

12 Q You have no -- you have no reason to know
13 one way or the other whether he was or wasn't there?

14 A Right, I just don't recall him being there.

15 Q Do you recall having a meeting at the
16 Legacy Hotel in which there was discussion of the
17 Arkansas securities commissioner?

18 A No.

19 Q Arkansas Housing Development Authority?

20 A All I recall is that we, you know, had a
21 meeting there with E.F. Hutton and some people from
22 the state of Arkansas, and I don't recall who they

1 were.

2 Q Do you recall making any proposals between
3 '80 and -- '82 and '86, excuse me, with regard to
4 various legislative proposals -- strike that. Bad
5 question?

6 MR. FEINSTEIN: Thanks.

7 BY MR. GIUFFRA:

8 Q Do you recall putting forward any proposals
9 for legislation in the state of Arkansas between 1982
10 and '86?

11 A Lasater & Company?

12 Q Yeah.

13 A No, I don't recall ever doing that.

14 Q Did Lasater & Company have any role in the
15 creation of ADFA, Arkansas Development Finance
16 Authority?

17 A No, I don't believe so.

18 Q Do you recall any involvement with regard
19 to the change from the Arkansas Housing Development
20 Authority to the Arkansas Development Finance
21 Authority?

22 A No.

1 Q Do you recall any involvement with regard
2 to the authorizing legislation for the police radio
3 communication contract?

4 A I remember some discussion about that, that
5 there had to be some change in legislation or
6 something, so that could be done, or something like
7 that. And I'm not sure I didn't read that somewhere
8 or come across that in some preparation.

9 Q Okay. But you don't have -- you don't have
10 any other recollection with regard to any legislation
11 related to the --

12 A No.

13 Q -- police radio contract? Okay.

14 Let me show you some more letters. First
15 letter is Bates number 26606, DKSJ, dated May 1.
16 It's a letter from Dan Lasater to Governor Clinton.
17 This letter recommends the appointment of Mort
18 Hardwicke to the Arkansas Development Finance
19 Authority. Do you know Mort Hardwicke?

20 A No, I don't. If he would walk in here, I
21 wouldn't know him.

22 Q Do you recall writing this letter to

1 Governor Clinton?

2 A No.

3 Q Do you recall writing any letters to

4 Governor Clinton --

5 A Yes.

6 Q -- with regard to appointments to the

7 Arkansas Development Finance Authority?

8 A No -- well, not that specific, no.

9 Q What do you recall about writing letters to

10 Governor Clinton with regard to appointments to state

11 boards, just that you did so on a number of

12 occasions?

13 A Yes.

14 Q Do you recall anything more specific than
15 that?

16 A No.

17 Q I'm going to show you another document.

18 This one bears the document DKSJ 26609. This is

19 recommending Bill Mathis to the Arkansas Development

20 Finance Authority --

21 A Uh-huh, I know --

22 MR. FEINSTEIN: Let him ask you a

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1 question. Read the letter and let him ask you a

2 question.

3 BY MR. GIUFFRA:

4 Q This is dated May 1, 1985. It's from Dan

5 Lasater to Governor Clinton. Do you know Bill

6 Mathis?

7 A I know who he is.

8 Q Who is Bill Mathis?

9 A He was a real sharp black man that was in

10 the investment banking business. He was a good

11 friend of Michael Drake's and his -- I think his wife

12 now is Debbie Mathis. Doesn't she have a TV show or

13 something up here?

14 Q That's a bit of Whitewater trivia that I

15 don't know the answer to.

16 MR. FEINSTEIN: These guys don't have any

17 time to watch TV.

18 MR. COLE: That's what I was going to say.

19 Bob doesn't watch television. He's got a lot of

20 documents to review.

21 MR. FEINSTEIN: They watch C-Span for a

22 while.

1 MR. GIUFFRA: Off the record.
2 (Discussion off the record.)
3 BY MR. GIUFFRA:
4 Q Do you know Bill Mathis?
5 A Yes.
6 Q Oh, you said a smart man of
7 African-American descent?
8 A Right.
9 Q What more do you know about Bill Mathis?
10 A He was a friend of Michael Drake's.
11 Q And do you recall recommending him to
12 Governor Clinton with regard to the Arkansas
13 Development Finance Authority?
14 A I don't recall it, but this letter, you
15 know, it doesn't surprise me that I did.
16 Q Do you know whether he was appointed to the
17 Arkansas Development Finance Authority?
18 A No, I don't.
19 Q Let me show you another letter dated May 1
20 this is recommending the appointment of Margaret
21 Davenport-Jacks Bates number DKSJN 26603. Dan Lasater
22 to Bill Clinton.

1 A Most of these letters I'm sure were written
2 by Michael Drake.
3 Q Do you know Ms. Davenport-Jacks?
4 A I know who she is.
5 Q Who is she?
6 A At this time I think she worked for Twin
7 City Bank and she was a bond buyer and we sold that
8 bank bonds.
9 Q Is she someone you had a personal
10 relationship with?
11 A No.
12 Q But you knew her?
13 A Yes, I'd met her.
14 Q Do you recall writing this letter?
15 A No.
16 Q Do you know whether she -- you can't
17 remember the Arkansas Development Finance Authority?
18 A I think she did.
19 Q Do you know whether your representation had
20 anything to do with the appointment of
21 Ms. Davenport-Jacks to the Arkansas Development
22 Finance Authority?

1 A I would have to doubt it since most of them
2 failed.

3 Q Do you know whether Ms. Davenport-Jacks --
4 was she from Arkansas?

5 A Yes.

6 Q Let's go to another letter, May 1 also, Dan
7 Lasater to Bill Clinton. This is recommending James
8 Branyan, B-r-a-n-y-a-n, to the ADFA board and the
9 Bates number is DKS N 2613.

10 A I don't recall this.

11 Q Do you know the name James Branyan?

12 A I might if I see him, but I can't place
13 him. I can't pull him up on the computer screen
14 here.

15 Q Okay. I'll show you another letter, also
16 dated May 1st, bears Bates number DKS N 26616, Dan
17 Lasater to Governor Clinton, recommending George
18 Wright Jr. to the Arkansas Development Finance
19 Authority. Any recollection of this letter?

20 A No.

21 Q Any recollection of George Wright?

22 A Yes, I think I've met George Wright.

1 Q Was he ultimately appointed to the ADFA
2 board?

3 A I'm not sure.

4 Q I've put before you five letters, I
5 believe --

6 A All written on May 1st.

7 Q -- all written on May 1st, all to Governor
8 Clinton, all recommending various people to the
9 Arkansas Development Finance Authority board. Do you
10 remember writing any of these letters?

11 A No.

12 Q You think that Mr. --

13 A I can tell you who wrote them.

14 Q Go ahead. Who do you think wrote them?

15 A Michael Drake.

16 Q Why do you believe he wrote them?

17 A Look at my initials, DRL, and then you see
18 LS, that's Lisa Skreton, and that's his secretary.

19 Q You would have reviewed the letters?

20 A I'm sure I did look at them.

21 Q Did you believe that because you had -- at
22 the time you made political contributions to Governor

1 Clinton's gubernatorial campaigns, did you believe
2 that would increase the likelihood that the governor
3 might pay attention to recommendations that you might
4 make for appointments to state agencies?

5 A No, I had no reason to believe that.

6 Q Why did you have no reason to believe this?

7 MR. COLE: Haven't we already been through
8 this four times, Bob?

9 THE WITNESS: I mean, there was no reason
10 for me to believe that.

11 MR. FEINSTEIN: I don't know that that's an
12 answerable question, "why did you have no reason to
13 believe," and I'm going to object to the form.

14 MR. COLE: We keep coming back to this over
15 and over.

16 MR. FEINSTEIN: I might instruct him there
17 not to answer because it's unanswerable.

18 BY MR. GIUFFRA:

19 Q I'll show you another letter. This is a
20 Bates number -- actually it's a message line, DKS
21 26470?

22 A Is it May the 1st?

1 Q No, it's May 21st. It says it's to the
2 governor. It says "Dan Lasater called to please call
3 again for Jim Tom Bell."

4 A Jim Tom Bell.

5 Q Of ADFA. Who is Jim Tom Bell?

6 A Jim Tom Bell is in the mortgage business in
7 Arkansas. He worked for First National Bank. Then
8 he went to work for Simmons Bank and he has always
9 been in the mortgage business. Very bright guy.

10 Q Do you recall making a -- recommending Jim
11 Tom Bell to be on the ADFA board?

12 A No, but I don't dispute it.

13 Q No recommendation of making this phone call
14 to Governor Clinton on May 21st?

15 A No.

16 Q We don't know the year. This is another
17 one. This is a memo from Kathy to the governor.

18 A From whom?

19 Q Some woman named Kathy to Governor
20 Clinton. It says "rec by Dan Lasater," dated May
21 23. Based on the letters, one would think that
22 was '85. It bears Bates number DKS 26466.

1 Any further recollection of making these
2 recommendations?

3 A No, but these are, you know, these
4 recommendations are the same people that's in the
5 letters, May 1st letters, and Jim Tom Bell and Don
6 Spears.

7 Q Let me show you another document, bears
8 Bates DKS N 27588, it's a letter April 3, 1985 from
9 Patsy Thomasson to Governor Clinton. It states "Dan
10 had to be out of town this week visiting with clients
11 in New York and he asked me to forward to you the
12 resumes on Ed Willis and Jim Tom Bell. As you
13 remember, you and Dan have discussed Don Spears to
14 the governor on a couple of occasions in the past.
15 We wanted to reiterate our interest in seeing Spears
16 appointed and to also recommend Willis and Bell to
17 you. We have had a lot of business relationships and
18 personal relationships with both these respective
19 candidates and we believe that they would make
20 significant contributions to the board."

21 Now, you're a cc at the bottom of the
22 letter?

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1 A Right.

2 Q Do you recall seeing this letter before?

3 A No.

4 Q Have you ever seen this letter before?

5 A I don't know. I don't recall seeing it. I
6 don't dispute seeing it.

7 Q Show you another letter. This is dated May
8 23, 1985. It's from the Governor of the State of
9 Arkansas, Bill Clinton, to Dan Lasater; Bates number
10 DKS N 26605. "Dear Dan, I have received your letter
11 recommending Mort Hardwicke for the appointment to
12 the Arkansas Development Finance Board. I will give
13 your recommendation full consideration when making
14 appointments to this board. Thank you for your
15 interest and patience. If I can be of assistance,
16 please feel free that you may give me a call."

17 Do you recall receiving that letter from
18 Governor Clinton?

19 A No. Again, I don't dispute it.

20 Q No recollection of talking to the governor
21 about appointments?

22 A I don't remember who Mort Hardwicke is.

1 Q Let me show you another letter.

2 MR. FEINSTEIN: Sounds like an alias to me.

3 MR. O'CALLAGHAN: I assure you he exists.

4 THE WITNESS: He does.

5 MR. O'CALLAGHAN: He's a former ADFA board
6 member.

7 BY MR. GIUFFRA:

8 Q Let me show you 26602, dated May 23, 1985,
9 from Bill Clinton to you, again thanking you for your
10 letter recommending Margaret Davenport-Jacks. Any
11 recollection?

12 A Huh-uh.

13 Q How about another letter, DKS N 26608, May
14 23, '85, Bill Clinton to Dan Lasater, thanking you
15 for recommending Bill Mathis to the ADFA board. Any
16 recollection?

17 A No.

18 Q Another letter, Bates number DKS N 26612,
19 May 23, 1985, Bill Clinton to Dan Lasater, thanking
20 you for recommending James Branyan, B-r-a-y --

21 MR. FEINSTEIN: B-r-a-n-y-a-n, I think.

22 MR. GIUFFRA: Sorry.

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1 BY MR. GIUFFRA:

2 Q No recollection?

3 A No.

4 Q Another letter, DKS N 26615, May 23, 1985,
5 Bill Clinton to Dan Lasater, thanking you for
6 recommending George Wright to the ADFA board.

7 A Looks like we could have both saved a lot
8 of stationery.

9 Q No recollection?

10 A No.

11 Q All right. Do you recall ever meeting Bob
12 Nash for lunch in 1985?

13 A No.

14 Q Have you ever met Bob Nash?

15 A Yes.

16 Q But no recollection of having lunch with
17 him in '85?

18 A No.

19 Q Show you another letter, bears Bates number
20 DKS N 27569, dated January 28, 1985 from Dan Lasater
21 to the Honorable Bill Clinton, and references certain
22 University of Arkansas financing activities involving

1 Lasater.

2 Have you ever seen that letter? And take a
3 look at the attachment. The letter is DKS~~N~~ 27569 and
4 the attachment is 27571.

5 (Witness reviewed the document.)

6 A Okay. What's your question?

7 Q Do you recall sending this letter to
8 Governor Clinton?

9 A No.

10 Q Any recollection of ever discussing
11 University of Arkansas financings with Governor
12 Clinton?

13 A No.

14 Q Any recollection of ever discussing
15 University of Arkansas financings with anyone?

16 A Michael Drake.

17 Q What do you recall about those
18 communications?

19 A Just I remember that the Old Main deal was
20 brought to our attention. I don't remember many
21 details about it. I remember that we were promised
22 by Frank Broyles to be a participant in the stadium

1 expansion up there. And we were good corporate
2 citizens to the University of Arkansas with financial
3 support. The University of Arkansas basketball team,
4 football coaches used our airplanes very frequently.

5 And, you know, I thought we were good
6 corporate citizens and we deserved the opportunity to
7 be able to participate in the stadium financing. And
8 Frank Broyles had an assistant call and tell us that
9 they -- that Stephens was going to do the deal.

10 Q Now, at page DKS~~N~~ 27571, it says on the
11 last -- second to last full paragraph "The long and
12 the short of this deal is the fact that other
13 proposals submitted by Lasater, the deal was awarded
14 to Drexel Burnham/Stephens based solely upon the
15 political pressure brought to bear."

16 Does that refresh your recollection as to
17 why you may not have received the bond underwriting
18 contract?

19 A Excuse me?

20 Q Does that refresh your recollection why you
21 might not have received the bond underwriting
22 contract?

1 A It was a decision -- from what I recall, it
2 was a decision that was made by the University.

3 Q Let me ask you a question. Between 1982
4 and 1986, did political pressure have any bearing on
5 the awarding of bond underwriting contracts by either
6 the Arkansas Housing Development Authority or the
7 Arkansas Development Finance Authority?

8 A Not that I'm aware of.

9 Q So your testimony would be that you're not
10 aware of any political pressure being brought to bear
11 with regard to the awarding of bond underwriting
12 contracts by either the Arkansas Housing Development
13 Authority or the Arkansas Development Financing
14 Authority?

15 MR. FEINSTEIN: Asked, answered and
16 restated.

17 THE WITNESS: Could you read it back to
18 me.

19 MR. FEINSTEIN: I wasn't asking you to
20 restate it. If he wants to have it restated, that's
21 fine. All I said was you restated his answer to the
22 previous question, but maybe we better nail it down.

1 MR. GIUFFRA: I think it's an important
2 point to make it clear.

3 MR. FEINSTEIN: Repeating it doesn't
4 necessarily make it clearer.

5 MR. GIUFFRA: Well, you never know.

6 (The reporter read the record as requested.)

7 MR. FEINSTEIN: Do you understand the
8 question?

9 THE WITNESS: I think my first answer
10 answered that.

11 MR. FEINSTEIN: Do you want to have your
12 answer read back to make sure?

13 THE WITNESS: I'd like to have the first
14 question and answer read back if I could.

15 (The reporter read the record as requested.)

16 THE WITNESS: Isn't that the answer to --

17 MR. FEINSTEIN: Before we have another
18 question, I'd like a minute just to consult --

19 MR. GIUFFRA: I think that's a --

20 MR. FEINSTEIN: -- privately. I don't
21 expect the answer to change, but I want to make sure
22 he's got some things clearly in mind that are in this

1 document.

2 (Witness conferred with counsel.)

3 (Recess.)

4 BY MR. GIUFFRA:

5 Q Mr. Lasater, you've had a chance to confer
6 with your counsel. Do you want to change your answer
7 in any way?

8 A No. One thing I would like to -- I was
9 just thinking about Lisa Skreeton being Michael
10 Drake's secretary.

11 Q Yes.

12 A I just recalled that my secretary at that
13 time, I think, was Lisa Stabaugh. But I do not
14 believe those letters to be written by her. I think
15 it would have been written by Michael Drake.

16 Q And so turning to this page that I just
17 read, 27571, was the reference to political pressure
18 being brought to bear by Drexel Burnham Stephens, you
19 just don't know anything about that?

20 A No.

21 MR. COLE: Although you did testify that
22 this was a bond offering by the University of

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1 Arkansas that was not an ADFA or ADHA, or whatever
2 the initials are, offering?

3 MR. O'CALLAGHAN: It's AHDA and ADFA.
4 That's what I can add to the record.

5 BY MR. GIUFFRA:

6 Q Why don't I ask the more broad question.
7 Do you want to amend your answer at all?

8 A No.

9 Q Mr. Lasater, are you aware of any instance
10 in which political pressure was brought to bear
11 between 1982 and 1986 with regard to any bond
12 underwriting by any agency or instrumentality of the
13 state of Arkansas?

14 MR. FEINSTEIN: Are you asking whether he's
15 aware of any political pressure brought to bear from
16 any source, not just his company?

17 MR. GIUFFRA: Yes.

18 MR. COLE: I'm sorry. Before you answer,
19 could I have that question read back again?

20 MR. GIUFFRA: Sure.

21 MR. COLE: I just want to make sure I
22 understand.

1 MR. GIUFFRA: Again, I'm trying to ask
2 broad question so we can expedite this.

3 MR. FEINSTEIN: We appreciate that, within
4 limits.

5 MR. GIUFFRA: I understand some questions
6 may need to be clarified.

7 (The reporter read the record as requested.)

8 MR. COLE: That's outside the scope of the
9 resolution, but I think I'm just going to let him
10 answer it because it's just prolonging the
11 deposition.

12 THE WITNESS: I don't recall or know of any
13 such pressure.

14 BY MR. GIUFFRA:

15 Q And by "political pressure," I would
16 include the fact that someone had made a political
17 contribution or in some way provided support to an
18 elected official.

19 MR. FEINSTEIN: Well, now we've got a real
20 problem with vagueness, I think, but if you can go
21 ahead and answer the question, go for it.

22 THE WITNESS: Is that a question or a

1 statement?

2 BY MR. GIUFFRA:

3 Q I'm just trying to clarify what I mean by
4 "political pressure." I can reask the question if
5 you want.

6 Are you aware of any instance between 1982
7 and 1986 in which the fact that someone had made a
8 political contribution had any impact on the awarding
9 of a bond contract by any agency or instrumentality
10 of the state of Arkansas?

11 A I don't have any knowledge of that
12 happening.

13 Q Okay. Just so we have the specific
14 question, you're not aware of any political pressure
15 being brought to bear with regard to the awarding of
16 the police radio contract by the state police
17 department?

18 A I am not.

19 Q Do you know whether any members of the ADFA
20 staff, ADFA maintained any accounts at Lasater &
21 Company?

22 A I don't -- I don't think they did. I don't

1 recall any. The only thing that would be closest to
2 that would be that we sold bonds, Lasater & Company
3 sold bonds to Twin City Bank in which Margaret
4 Davenport was an employee.

5 Q Did Lasater & Company maintain any accounts
6 at Madison Guaranty Savings & Loan Association?

7 A Did we?

8 Q Maintain any accounts at Madison Guaranty
9 Savings & Loan Association.

10 A You mean savings accounts?

11 Q Savings, checking.

12 A I don't think so.

13 Q Did you have any business relationship --
14 did Lasater & Company or any Lasater affiliate have
15 any business relationship of any kind with Madison
16 Guaranty Savings & Loan Association?

17 A Yes.

18 Q What business relationship did you have
19 with Madison Guaranty Savings & Loan Association?

20 A During that '82-86 period, sometime, one of
21 our salesmen, and I don't know who, sold bonds and
22 purchased bonds on a small basis from Madison

1 Guaranty.

2 Q Do you recall anything more about that
3 transaction?

4 A I didn't even recall that they were a
5 customer of ours until Starr or Fiske or somebody was
6 down in Arkansas and they brought it to our
7 attention.

8 There was another transaction I mentioned
9 earlier, that Emerald Isle, that was a time share
10 project that I owned in the holding company through
11 Lasater development, I think it was, that they sold
12 through Lasater & Company \$7 million in time share
13 paper. And it was one of Madison's better loans.
14 They didn't lose any money on it. The only way --
15 later they paid off just like they were supposed to,
16 with the exception of, after RTC had taken over the
17 savings and loan, the RTC wrote to us and asked us if
18 we would be interested in buying those notes back at
19 a discount. And we said we would, made them a bid
20 and they bit it. I think it was like 86 cents.

21 Q Do you recall any other business
22 transactions involving Madison Guaranty?

1 A No.

2 Q Did you know Jim McDougal?

3 A No.

4 Q Ever meet him, never met him?

5 A I could have met him at a social function
6 or something, but I don't recall.

7 Q Did Madison Guaranty maintain a securities
8 account at Lasater & Company as far as you know?

9 A I don't know. I don't believe so. I think
10 they safe-kept their own bonds.

11 Q Are you aware of any activities involving
12 money laundering that was associated with any ADFA
13 bond offerings or underwritings?

14 A Absolutely not.

15 Q Are you aware of any instances -- strike
16 that. Never mind.

17 Do you know someone by the name of Dennis
18 Patrick?

19 A Uh-huh.

20 Q Who is Dennis Patrick?

21 A Dennis Patrick was an individual who had an
22 account at Lasater & Company, under Patrick &

1 Associates I think.

2 Q And who is Dennis Patrick?

3 A He was a friend, he was a customer, but he
4 was also a friend of one of our salesmen, Steve Love.

5 Q Are you aware of any illegal or improper
6 conduct involving Mr. Patrick in his accounts at
7 Lasater & Company?

8 A No. I read all the stories, but there's
9 nothing to it, I mean, about, you know, him not
10 having any net worth or anything. But the financial
11 statements that we've turned over to the Special
12 Prosecutor, you know, were substantial enough that
13 there was no wrongdoing there.

14 MR. COLE: It's another area that I think,
15 as far as I know, is not within our resolution, but
16 I'm happy to have you, if you feel like you'd like to
17 make a statement and counsel concurs, I certainly
18 don't object.

19 MR. FEINSTEIN: I don't object.

20 THE WITNESS: We want to be cooperative.

21 BY MR. GIUFFRA:

22 Q We appreciate that. Are you aware of any

1 instance in which any employee or agent of Lasater &
2 Company provided any kind of payments, cash or other
3 financial benefits, to the governor?

4 A No, absolutely not.

5 Q To anyone on his staff?

6 A No.

7 Q To any state police officers?

8 A No.

9 Q Not aware of any bribes being paid to any
10 state officials in connection with state bond
11 underwriting contracts?

12 A No, none.

13 Q Are you aware of any cash being offered to
14 any member of the Arkansas state police commission in
15 connection with any police radio bond underwriting
16 contracts?

17 A I'm sorry. Read that again.

18 Q Are you aware of any cash or other
19 financial benefits being offered to anyone in
20 connection with the police radio bond underwriting
21 contract?

22 A Absolutely not.

1 (Discussion off the record.)

2 BY MR. GIUFFRA:

3 Q I'm going to show you cover pages of a
4 number of prospectuses, I believe, of the Arkansas
5 Development Finance Authority. These prospectuses
6 appear to indicate that the Rose Law Firm acted as
7 counsel to some extent with regard to those bond
8 underwriting contracts.

9 MR. O'CALLAGHAN: I think there are a
10 couple -- a couple copies in there, too. There's
11 three of each.

12 MR. O'CALLAGHAN: Off the record for a
13 second.

14 (Discussion off the record.)

15 BY MR. GIUFFRA:

16 Q Do you recall whether the Rose Law Firm had
17 any role with regard to underwriting contracts in
18 which your company was involved with regard to ADFA?

19 A None.

20 Q Did you ever work with anybody from the
21 Rose Law Firm in connection with any bond
22 underwriting contracts --

1 A No.

2 MR. FEINSTEIN: Let him finish his question
3 before you answer.

4 THE WITNESS: Okay.

5 BY MR. GIUFFRA:

6 Q Did Lasater & Company ever retain the Rose
7 Law Firm to provide any legal services?

8 A I don't believe so.

9 MR. FEINSTEIN: Do we have a particular
10 time period in mind for this?

11 BY MR. GIUFFRA:

12 Q Between '82 and '86.

13 A No, I don't think so.

14 Q Do you recall when the first public
15 disclosure occurred of the fact that you were under
16 investigation for possible criminal wrongdoing in
17 1985-86?

18 A No, I don't recall that.

19 Q Do you recall whether it was before or
20 after the awarding of the police radio contract to
21 Lasater & Company?

22 A Oh, it was after that.

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1 Q Why do you know it was after that?

2 A We wouldn't have -- we wouldn't have
3 received the contract if it would have been before
4 that, I don't think.

5 Q Do you know a man named Sam Anderson?

6 A Yes.

7 Q Who is he?

8 A Jr. or Sr.?

9 Q Jr.

10 A He was an attorney in Little Rock. So was
11 his father -- I'm sorry, not Little Rock, Hot
12 Springs.

13 Q Do you know whether Sam Anderson is a
14 friend of Roger Clinton's?

15 A Yes, he is; Sam Anderson, Jr. is.

16 Q Yeah, Jr. Boyhood friend?

17 A I don't know how far back they go.

18 Q Do you know whether Sam Anderson testified
19 before the grand jury -- strike that.

20 Do you know whether Sam Anderson provided
21 any testimony in connection with the investigation of
22 possible criminal wrongdoing by you?

1 MR. COLE: Before you answer, Mr. Lasater,
2 may I ask how this is within the scope of our
3 inquiry?

4 MR. GIUFFRA: Yeah. It goes to the
5 question as to when the governor might have been
6 aware of the fact that Mr. Lasater was a target of
7 possible criminal -- was a possible target in a
8 criminal investigation.

9 MR. COLE: I'm sorry. Maybe I'm getting
10 tired here. I just don't -- I'm not catching the
11 connection between a lawyer in Hot Springs and Roger
12 Clinton. Can you help me out here?

13 MR. GIUFFRA: Well, there's a Los Angeles
14 Times article, dated March 23, 1992, in which it's
15 indicated that three months before the state police
16 commission voted to award the police radio contract
17 to Lasater, which would be February of '85, that Sam
18 Anderson may have testified in some sort of a
19 proceeding involving Mr. Lasater.

20 MR. COLE: Grand jury proceeding --

21 MR. GIUFFRA: I believe so, but I'm not
22 sure.

1 MR. COLE: -- which under federal law, and
2 I think under state law, is secret. Was it a federal
3 proceeding? So under it would be a secret. I'm just
4 not getting it here. Your theory is --

5 MR. GIUFFRA: It may not have been the
6 grand jury, but it may have been reported in
7 newspapers in Arkansas at the time.

8 MR. FEUER: You asked that question, didn't
9 you?

10 MR. COLE: Yeah, but I'm not getting it.

11 BY MR. GIUFFRA:

12 Q Let me ask my questions and we'll --

13 MR. COLE: I'm having to --

14 BY MR. GIUFFRA:

15 Q Are you aware of whether Mr. Anderson
16 testified in any sort of criminal proceeding
17 involving yourself?

18 A I've heard that he did.

19 Q And what have you heard exactly?

20 A I just heard that he testified against --
21 maybe it was Roger he testified against.

22 MR. COLE: That's what I'm confused

1 against, is what --

2 THE WITNESS: I think it's Roger he
3 testified against.

4 BY MR. GIUFFRA:

5 Q You don't know whether he testified against
6 you?

7 A No. I think it was in the paper that he
8 testified against Roger.

9 Q Now, he would have testified against Roger
10 at the trial which would have been February of '85;
11 right?

12 A Right.

13 Q And that would have been a public
14 proceeding, Roger's trial?

15 A Yes, it was. I wasn't there, but it was --

16 Q Do you know whether there was any mention
17 of you during Roger's trial?

18 A I don't believe there was.

19 MR. COLE: Do you believe you would have
20 heard about it if he would have?

21 THE WITNESS: Yes, I believe I would have.

22 MR. COLE: I would assume so as well.

1 BY MR. GIUFFRA:

2 Q Between '82 and '86, was there any NASD
3 investigation of Lasater & Company?

4 A Yes, we had some complaints. We had a few
5 sanctions during that period of time.

6 Q Do you recall specifically what the nature
7 of the sanctions were?

8 A Only thing that I recall is the SEC
9 director or assistant director -- his name, I can't
10 recall what his name was, Baker or something.

11 Q Robert Baker?

12 A No.

13 MR. COLE: Bill Baker.

14 THE WITNESS: No. He was at the New
15 Orleans office which was the area that we were
16 under. It was -- maybe it wasn't Baker. If I've
17 heard it or saw it, I'd known it. He called --
18 apparently he called 20 of our customers and told
19 them, were you aware that Lasater & Company made
20 \$17,000 on this trade, or were you aware that Lasater
21 & Company made \$6000 on this trade. And, you know,
22 we had some type of a sanction because of excessive

1 commissions, I think. That's what I recall.

2 BY MR. GIUFFRA:

3 Q Do you recall any other sanctions by either
4 the SEC or the NASD involving Lasater & Company
5 between '82 and '86?

6 A It seems like there were some others, but I
7 don't recall them right now.

8 Q Do you recall any investigations of Lasater
9 & Company by either the NASD or SEC between 1982 and
10 1986?

11 A That's a long time ago. You know, I
12 believe that there was, but I don't recall the
13 surrounding facts.

14 Q Now with regard to the criminal
15 investigation of you, when was the first time that
16 you became aware that you might be the subject of a
17 criminal investigation?

18 A Well, I was indicted fairly quickly, and I
19 was indicted, I think in October.

20 Q Of what year?

21 A '86.

22 Q Okay.

1 A I'd say it was within 60 days back of that
2 date.

3 Q So August of '86?

4 A August, September, October. But that's
5 speculating. I don't recall the exact date.

6 Q Okay. And were you contacted by members of
7 the Arkansas state police in connection with their
8 investigation of you?

9 A I can't recall how I first found out about
10 the investigation. I know there was -- I think there
11 was a federal investigation that was done earlier and
12 was dropped maybe months or two earlier, and then the
13 state made the case.

14 Q Okay. So there was a federal investigation
15 of you sometime in the summer of '86?

16 A That's my understanding.

17 Q And that was -- was that being run by the
18 U.S. Attorney's office in Little Rock?

19 A That's my understanding.

20 Q And then that office passed the case off to
21 the state prosecutors in Pulaski County?

22 A My understanding was that they didn't

1 pursue it because it was recreational use of drugs
2 instead of sale of drugs, and the state went in and
3 made the case, and took it to U.S. District Attorney
4 after they had made the case.

5 Q U.S. Attorney -- U.S. Attorney?

6 A Yes.

7 Q And then were you prosecuted by the U.S.
8 Attorney?

9 A Yes.

10 Q As a federal offense?

11 A Right.

12 Q Okay. But this all would have occurred --

13 main thing I want to focus on is just the timing.

14 The earliest you would have known about any possible
15 investigation of you for any kind of narcotics
16 offense would have been the summer of '86?

17 A Yes.

18 Q Can you give us a month?

19 MR. COLE: I think he already did.

20 BY MR. GIUFFRA:

21 Q July?

22 A The best that I recall was 60 days.

1 MR. FEINSTEIN: Prior to October.

2 BY MR. GIUFFRA:

3 Q That's the state investigation. What about
4 the first federal investigation?

5 A That's -- I don't think I knew of that
6 until afterwards.

7 MR. FEINSTEIN: I think what he said, just
8 for clarification, was the first he learned of any of
9 this was 60 days back of when he was indicted;
10 right?

11 THE WITNESS: Right.

12 MR. FEINSTEIN: Regardless of who was doing
13 the investigating, that's when he first heard about
14 it.

15 BY MR. GIUFFRA:

16 Q Is that correct?

17 A That's correct.

18 Q Did you have any communication with anyone
19 at the Arkansas state police about investigations
20 involving you?

21 A No.

22 Q Do you know Tommy Mitchum?

1 A Yes.

2 Q Is he the brother of Johnny Mitchum of the
3 Arkansas state police commission?

4 A He is.

5 Q No communications with Tommy Mitchum
6 about --

7 A No.

8 Q -- the investigation?

9 Was Tommy Mitchum aware of your drug use?

10 A No, he was not.

11 Q Between '82 and '86, was Lasater & Company
12 involved in any litigation involving First American
13 Bank?

14 A Yes.

15 Q Could you just briefly describe for the
16 record the nature of that litigation.

17 A It's a lot easier when you ask the
18 questions, but I'll do the best I can.

19 Q Okay.

20 A First American -- was it First American?

21 Q Yes.

22 A It was a savings and loan in Chicago?

1 Q Correct.

2 A What I recall is that there was some trades
3 through our Chicago office on calls and puts on bonds
4 that were disputed by First American. And they had
5 lost in those trades significant amount of money,
6 200,000, 300,000, 250, something like that. And we
7 disputed those claims and said they were their trades
8 and that that was our position and they sued us for,
9 I don't know, 10 times their losses or something.

10 MR. FEINSTEIN: Are you done with your
11 answer?

12 THE WITNESS: Yes.

13 MR. FEINSTEIN: I probably should have
14 raised this before you answered. I could use some
15 help on the connection between that issue and bond
16 underwriting contracts between ADFA and Lasater &
17 Company. There may be one.

18 MR. GIUFFRA: It actually fits under
19 another group resolution.

20 MR. COLE: Arguably fits.

21 MR. GIUFFRA: And that has to do with that
22 would be Section 1(b)(3)(C) and (D) -- actually (D),

1 excuse me. 1(b)(3)(D). And actually (C), (C) and
2 (D).

3 MR. COLE: Yeah, D. I don't -- (D) says
4 "regarding Madison Guaranty Savings & Loan
5 Association."

6 MR. GIUFFRA: What it has to do with --

7 MR. FEINSTEIN: That's (C) actually. They
8 both say it actually.

9 MR. GIUFFRA: (C) would be the better one.
10 And that has to do with possible conflicts of
11 interest that the Rose Law Firm had with regard to
12 its representation of the RTC in certain matters, and
13 I believe the Rose Law Firm represented the RTC --

14 MR. FEINSTEIN: Isn't this --

15 MR. GIUFFRA: -- in this litigation
16 involving Mr. Lasater's firm, and there's an issue
17 involving a conflict that the Rose Law Firm may or
18 may not have had.

19 MR. FEINSTEIN: Well, I understand what
20 you're saying, but I see the words with respect to
21 Madison Guaranty Savings & Loan in both (C) and (D).
22 And maybe I'm missing something, but I don't see any

1 connection between the litigation you are asking him
2 about --

3 THE WITNESS: In the spirit of cooperation,
4 though, I would just -- you know, if you guys don't
5 have a problem --

6 MR. COLE: Well, I think Mr. Giuffra will
7 assert that there's a possible issue as to whether
8 the Rose Law Firm, there was any conflict of interest
9 with respect to the work it was doing for Madison on
10 the one hand, and in this First American lawsuit on
11 the other. And that's why I didn't object to this
12 question earlier. So -- but your counsel has to make
13 the final determination as to whether he's
14 comfortable.

15 MR. FEINSTEIN: Well, if you -- again --

16 THE WITNESS: I would just as soon answer
17 the questions.

18 MR. FEINSTEIN: Let's get on with it. I,
19 at least for my own understanding, wanted to hear the
20 connection and I'm not really sure if I've heard it,
21 but let's get on with it.

22 BY MR. GIUFFRA:

1 Q Ultimately the case was taken over by --
2 the RTC took over First American Bank; right?

3 A That's my understanding, yes.

4 Q And the Rose Law Firm -- were you aware
5 that the Rose Law Firm represented --

6 A Yes.

7 Q -- the RTC in the case against the firm?

8 A Right. I don't think they initiated the
9 lawsuit though. I think the lawsuit was initiated by
10 First American, wasn't it, with a different law firm.

11 Q But then Rose was brought in?

12 A Right.

13 Q And you were aware of the fact that Rose
14 was brought in?

15 A Yes.

16 Q Do you recall when the lawsuit was
17 litigated?

18 A I'm sorry?

19 Q Do you recall when the case was litigated,
20 the time period?

21 A The best I recall, it was ongoing when I
22 sold the firm so it would have probably been in

240

1 the '86-87 time zone.

2 Q Okay. Do you recall the names of the
3 attorneys for the Rose Law Firm who represented the
4 RTC in this matter?

5 A Vince Foster.

6 Q Did you have any face-to-face meetings with
7 Vince Foster?

8 A No.

9 Q Why do you recall that Vince Foster was
10 involved in the case?

11 A I don't know how I recall that.

12 Q Do you know whether Mrs. Clinton did any
13 work on this case?

14 A Not that I'm aware of.

15 Q Did you ever have any discussions about
16 this case with either Governor or Mrs. Clinton?

17 A No.

18 Q Did you ultimately settle the case with the
19 RTC?

20 A Yes.

21 Q How much was the RTC seeking?

22 A Was it not 2- or \$3 million; right?

1 Q Do you recall how much the settlement was?

2 A I think it was between 2- and 250. It was
3 close to what their losses were.

4 Q 200,000?

5 A 200,000 to 250,000.

6 Q Which was close to what the bank's losses
7 were?

8 A Right.

9 Q Excuse me. Actually I should correct
10 myself. The case was brought in the name of the
11 FDIC, not the RTC.

12 A Okay.

13 Q Between '82 and '86, did the members of an
14 underwriting syndicate for an Arkansas state bond
15 offering have any role with regard to the selection
16 of bond underwriters counsel, or was that something
17 that the lead underwriters decided?

18 A I don't know. I don't know who made that
19 decision.

20 Q You never -- do you recall ever
21 recommending that the Rose Law Firm be a bond
22 underwriting contract for any bond offering in

1 which --

2 A No.

3 Q -- state bond offering in which Lasater &
4 Company was involved?

5 A No, and I probably would not have
6 recommended that. Rose Law Firm was affiliated with
7 Stephens and they did all of their work, so you know,
8 I wouldn't have considered them as someone that I
9 would have used.

10 Q We've covered some of this stuff before. I
11 just want to get it very briefly.

12 With regard to the police radio contract
13 underwriting, your testimony is you recall some
14 discussion of that bond underwriting contract with
15 Michael Drake?

16 A Right.

17 Q And you ultimately -- your company
18 ultimately received the contract?

19 A Right.

20 Q Do you recall anything more about the
21 awarding of that bond underwriting contract?

22 A E.F. Hutton and T.J. Raney were

1 participants with us. T.J. Raney ran the books.

2 Q When you say "T.J. Raney ran the books,"
3 what does that mean, they were lead underwriter?

4 A No, not necessarily lead underwriter but
5 they ran the books. They're the ones that received
6 the money for the bonds. They're the ones that paid
7 the money to the state, and paid the commissions to
8 the management group.

9 Q And putting together the bond underwriting
10 syndicate, was T.J. Raney the lead underwriter
11 though, or you just don't recall?

12 A I thought it was Hutton, but --

13 Q Did Michael Drake ever indicate to you that
14 T.J. Raney approached Lasater & Company because of
15 any relationship that Lasater & Company had with Bill
16 Clinton?

17 A Yes.

18 Q What did Michael Drake say to you?

19 A He mentioned -- I ran into Michael, it will
20 be two weeks this Sunday after he was here after
21 church on Sunday. Me and my wife and three children
22 were having lunch and he and his wife were having

1 lunch there. And he mentioned -- he mentioned at
2 that time -- or I met with him four five days after
3 that for 15 or 20 minutes at my house and he could
4 have mentioned it there. But he did mention that
5 fact at that time.

6 Q Now let's go back. You met with him for 15
7 minutes or so within the last two or three weeks?

8 A Yes. After he had been here to give his
9 deposition.

10 Q And what was the purpose of that meeting?

11 A He said he just wanted to get together with
12 me and to let me know where you-all were headed with
13 me. He said you were quite interested in me.

14 Q And what did he say about -- what did you
15 discuss with Mr. Drake at that meeting at your house?

16 A Basically he was telling the areas, you
17 know, you were interested in what my personal
18 relationship with the Clintons was, wanted to know
19 about the highway, the ADFA bonds, the state police,
20 and a couple of other things.

21 Q Do you recall what those other things were?

22 A No, I don't.

1 Q Did Mr. Drake indicate to you -- strike
2 that.

3 Did Mr. Drake say anything to you about
4 what he had told the Committee with regard to any of
5 the matters that are now under investigation?

6 A Repeat that question again, please.

7 Q Did Mr. Drake say anything to you about his
8 testimony before the Committee?

9 A Yes, he gave me the areas in, where your
10 interest lied with me.

11 Q Did he say anything about what he had
12 testified to before the Committee?

13 A Not specifically.

14 Q I think --

15 A That I can recall.

16 Q Now, either during the meeting you had at
17 your house or during the church meeting, you believe
18 Mr. Drake said something about T.J. Raney,
19 approaching Lasater & Company with regard to the
20 police radio contract because of your relationship
21 with Bill Clinton?

22 A Yes.

1 Q What do you recall Mr. Drake saying to you
2 about that?

3 A Just exactly what I -- what you just
4 repeated.

5 Q And that would be that T.J. Raney
6 approached Lasater & Company with regard to the
7 police radio contract because of your relationship
8 with Bill Clinton?

9 A That's correct.

10 Q Did he say anything more?

11 MR. FEINSTEIN: Hold on. I want to clarify
12 when you are saying "that's correct," you are saying
13 that's correct, that's what Mr. Drake said to you?

14 THE WITNESS: Yes, that's what I recall he
15 said to me.

16 BY MR. GIUFFRA:

17 Q You don't recall that back in 1985 or 86?

18 A No, not at all.

19 MR. FEINSTEIN: Do you have any independent
20 basis for knowing what was in T.J. Raney's head at
21 the time?

22 THE WITNESS: No, no.

1 MR. FEINSTEIN: I just want to make sure
2 we're clear on what he said was correct.

3 MR. GIUFFRA: I want to make sure he's
4 treated fairly.

5 BY MR. GIUFFRA:

6 Q Now, Mr. Lasater, did you participate in
7 any aspect of the planning of the financing of the
8 bond underwriting contract --

9 A No.

10 Q -- for the police radio network?

11 A No.

12 Q Did you participate in any way with regard
13 to the drafting of legislation with regard to that
14 bond underwriting contract?

15 A No.

16 Q That would have all been handled by
17 Mr. Drake?

18 A Right.

19 Q Would he have been the primary person at
20 Lasater & Company with regard to the police radio
21 bond underwriting contract?

22 A He would.

1 Q So he would be the best one for us to talk
2 to, in your view, as to the Lasater & Company?

3 A He would be the only one to talk to.

4 Q Is there anyone else at Lasater & Company
5 that would have been involved in the bond
6 underwriting contract for the police radio network?

7 A No.

8 Q Do you recall anything more about the bond
9 underwriting contract for the police radio network,
10 other than what you've testified to here today?

11 A No.

12 MR. FEINSTEIN: You want to ask him about
13 the results? Are you limiting your question to
14 events prior to the award of the contract, or would
15 you like his opinion on whether or not it was a good
16 deal for his company?

17 BY MR. GIUFFRA:

18 Q All right.

19 A I do recall that.

20 Q Okay. Why don't you give us your
21 testimony. Was --

22 MR. FEINSTEIN: I just wasn't sure your

1 question, you know, encompassed that.

2 BY MR. GIUFFRA:

3 Q What --

4 A What I recall was our fee was 105-
5 \$110,000, something like that, management fee. But
6 with that, we had the state police made us take
7 the -- to do the deal at a bad time. We were trying
8 want to do the deal. They wanted to do the deal, but
9 we didn't want to do it because the market was going
10 away from us. And we got hung with about \$3-1/2
11 million of bonds that we lost our fanny on, but they
12 forced us to do it.

13 Q How much money did you lose on this entire
14 transaction?

15 A I don't think we lost money on the entire
16 transaction, but it ate up all the management fee.

17 Q Did you make any money with regard to
18 the -- did Lasater & Company make any money with
19 regard to its underwriting of bonds for the police
20 radio network for the Arkansas state police
21 department?

22 A I don't believe so. I think we ended up

250

1 losing money on it.

2 Q Do you know how much you might have lost?

3 A No, but between all the expenses and the
4 loss we had on the bonds, I think we lost money.

5 Q Any rough idea as to how much?

6 A No, I wouldn't want to speculate.

7 There is one thing that I think you would
8 find of interest, though. You know, your concern
9 here seems to be whether Rose Law Firm did me a favor
10 in settling that lawsuit at that price; is that
11 correct?

12 MR. COLE: The First American lawsuit?

13 THE WITNESS: Yes.

14 MR. GIUFFRA: It's not really a concern.

15 The question is whether Rose Law Firm had a conflict
16 of interest and an issue with regard thereto might be
17 the settlement level.

18 THE WITNESS: Well, there was a second
19 lawsuit, I think it was Home Federal, and Vince
20 Foster was with Rose, was the attorney for them,
21 too. And how that lawsuit come about was, in Vince
22 doing his research on that lawsuit, he ran across

1 another firm that had similar trades and he convinced
2 them to sue us. So there was not just the Home
3 Federal. There was another suit.

4 MR. FEINSTEIN: You mean not just the First
5 American?

6 THE WITNESS: Not just the First American.
7 There was the First American and Home Federal which
8 was under the same guideline. So, you know, to me,
9 Vince Foster and the Rose Law Firm wasn't doing me a
10 good deal if they're going out recruiting business
11 against me.

12 MR. COLE: When you say he found another
13 firm, you were referring to Home Federal, another
14 financial institution that had what he viewed as
15 similar losses.

16 THE WITNESS: Yes.

17 MR. COLE: Your understanding is that he
18 encouraged them to bring a lawsuit against your
19 company?

20 THE WITNESS: Yes. It cost us in excess of
21 \$100,000. But I'm sure it was a good fee for him.

22 MR. COLE: I wouldn't call that a favor.

1 THE WITNESS: No, but I'm not sure that,
2 you know, that you-all are aware of that, if they're
3 doing me a favor over here, you know, and stabbing me
4 in the back over here, it don't hold water.

5 BY MR. GIUFFRA:

6 Q Did the governor's office ever indicate to
7 you or anyone else at Lasater & Company that any
8 certain amount of underwriting work should go to
9 Arkansas firms?

10 A Yes -- now wait a minute. Let me correct
11 my answer. My understanding was that that was the
12 policy, that they wanted a certain amount of the
13 business in Arkansas to stay within Arkansas.

14 Q Do you recall what the percentage was?

15 A No, I don't.

16 Q Do you recall anything more about that
17 subject?

18 A No, just that Governor Clinton's policy was
19 inclusive. I mean, he wanted -- he was a
20 politician. He wanted everybody involved, okay.

21 Q Did you ever have discussions with him,
22 other than what you've testified to today, about the

1 extent to which underwriting work should go to
2 Arkansas firms?

3 A I'm sorry?

4 Q I think you previously testified you had
5 one conversation with him about the amount of
6 underwriting work that should go to your firm?

7 A Right. No, I was concerned about that I
8 felt that we should be getting more. I was asking
9 for more of the bigger -- more of the pie.

10 Q And your testimony is, you didn't get more
11 of the pie --

12 A No.

13 Q -- following the conversation with Clinton?

14 A No.

15 Q During that conversation or any other
16 conversation with Clinton, did you ever discuss with
17 him just the general subject matter of the amount of
18 underwriting, state underwriting business that should
19 go to Arkansas firms?

20 A I don't recall such a conversation.

21 Q Did you ever discuss that subject with
22 anyone on the governor's staff?

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1 A I don't recall that.

2 Q When you made the request to Governor
3 Clinton for more bond business, were you asking that
4 you be named lead underwriting in connection with
5 certain bond offers?

6 A Lead underwriter?

7 Q Yes.

8 A No.

9 Q Did you have the capability to be the lead
10 underwriter?

11 A No, not the lead underwriter.

12 Q Just to get a bigger percentage of the
13 offering to sell?

14 A Yes. In my opinion, the lead underwriter
15 needed to be a New York primary with expertise in
16 that area, more than we had.

17 Q You thought you just should get a bigger
18 amount of the bonds to sell?

19 A Yes.

20 Q Bigger percentage of the offering?

21 MR. COLE: In your position, you should get
22 a bigger portion of the underwriting was because of

1 the size of your firm and your firm's ability to
2 distribute the bonds relative to other firms in
3 Arkansas?

4 THE WITNESS: The basis of my contention
5 was that because of the size of our net capital, at
6 that time which is in excess of \$5 million, that we
7 were entitled to a bigger share than someone that had
8 a \$250,000 net capital.

9 MR. COLE: Were these firm commitments
10 underwritings or best efforts underwritings?

11 THE WITNESS: You know, I'm not sure.

12 MR. COLE: Well, presumably the police
13 radio commission bond offering that you testified to
14 previously would have been a firm commitment
15 underwriting since your firm was obligated to
16 purchase those bonds?

17 THE WITNESS: Right. And I believe they
18 would all have been firm commitments, but I really
19 don't know that. I don't think, you know, that size
20 of a issue, I'm not sure you could do best efforts.

21 BY MR. GIUFFRA:

22 Q Between 1982 and 1986, do you recall any

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1 communications between yourself and Wooten Epes?

2 A Personal conversations?

3 Q Yes.

4 A I don't recall any personal conversations,
5 you know, other than just see him somewhere and shake
6 his hand and hello.

7 Q Do you recall any communications between
8 yourself and any other -- any members of the ADFA
9 board or bond underwriting contracts?

10 A No.

11 MR. GIUFFRA: Mr. Lasater, you testified
12 earlier that there have been a number of allegations
13 surrounding you and you have come all the way up here
14 from Arkansas. Is there any statement you want to
15 make on the record with regard to any of the
16 allegations that have been made about you that you
17 haven't made already today?

18 THE WITNESS: Not at this time.

19 MR. COLE: There is one area --

20 MR. GIUFFRA: I don't have any further
21 questions, and I very much appreciate your
22 cooperation.

1 THE WITNESS: You bet.

2 MR. COLE: What I'd like to do at this
3 time, Mr. Giuffra, as I indicated earlier, I have
4 another deposition scheduled for 5:00 and I'm going
5 to have to leave in a few minutes. I had one area
6 that I wanted to ask Mr. Lasater about, and then
7 Mr. Feuer is going to proceed, if you don't object.

8 MR. GIUFFRA: No.

9 EXAMINATION

10 BY MR. COLE:

11 Q Mr. Lasater, we didn't get into it today,
12 at least while I was in the room. I was out a couple
13 of times. But there have been reports to what has
14 been characterized -- reports concerning what has
15 been characterized as a pardon you received from
16 Governor Clinton --

17 A Yes.

18 Q -- at a time after your incarceration and
19 I'd like to ask you some questions about that
20 matter.

21 A Certainly.

22 (Discussion off the record.)

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1 BY MR. COLE:

2 Q Did there come a time, after your release
3 from your period of incarceration, that you asked the
4 governor's office in Arkansas to take some action
5 with respect to you?

6 A Yes.

7 Q And what was that?

8 A First, I went to -- I was told by my
9 probation officer I told him that I wanted to be able
10 to hunt with my children and I thought that an action
11 had to be taken through Alcohol Tobacco and Firearms.

12 Q The federal Alcohol --

13 A Right, federal agency. So I wrote them a
14 letter and asked them for an application for that.
15 They wrote back and said I had to have a pardon from
16 the state or some type of release from the state, or
17 something from the state. And we went through the
18 channels and got that, and then applied to ATF and
19 received the right to be able to carry a firearm.

20 Q And when you say that you went through the
21 channels and got that, are you referring to channels
22 within the governor's office?

1 A No, it was through the -- I think there's a
2 board or something that -- Bureau of Prisons or
3 Pardons or whoever -- that you have to go through.

4 Q Is this a state or federal agency?

5 A State.

6 Q A state agency?

7 A Uh-huh.

8 Q So did you submit an application or letter
9 request to that state agency?

10 A We did.

11 Q And what did you request from them?

12 A The ability to be able to bear firearms for
13 hunting purposes.

14 Q And what action did that state agency take?

15 A It was positive action. It was very slow.
16 It took a year and a half, I think.

17 Q Did you have any communications with the
18 governor's office with respect to that matter?

19 A No.

20 Q Did you ever have any personal discussions
21 with Governor Clinton on that matter?

22 A No.

1 Q With any members of his staff?

2 A No.

3 Q And the application was acted upon
4 favorably by the state?

5 A Yes, it was.

6 Q Was that action an action that was signed
7 off on by the governor?

8 A It was.

9 Q And then what was the next step, was that
10 submitted to the federal authorities?

11 A With a copy of the -- I think it's called a
12 partial pardon, with a copy of the partial pardon, we
13 applied to the ATF and they granted a relief so that
14 I could carry a firearm for hunting purposes.

15 MR. GIUFFRA: Just so we're clear, what is
16 the -- was it a partial pardon relating just to your
17 ability to carry --

18 THE WITNESS: Yes.

19 MR. GIUFFRA: -- firearms for hunting
20 purposes?

21 THE WITNESS: Yes.

22 BY MR. COLE:

1 Q And through the course --

2 A That's a little different than what's in
3 the papers, isn't it?

4 Q Through the course of this process, did you
5 come to have an understanding as to whether the
6 procedures you were following were the ordinary
7 procedures for such a request?

8 A Right.

9 Q And do you have any reason to believe that
10 you received any special treatment from the
11 governor's office with respect to this matter?

12 A No, I do not.

13 Q How long did it take for you to get the --

14 A It was close -- best I recall, a year and a
15 half.

16 Q And if I'm understanding your testimony
17 correctly, the only thing that partial pardon did was
18 permitted you to carry a firearm for hunting
19 purposes, which otherwise you would not have been
20 able to do?

21 A No. The partial pardon allowed me to apply
22 to the ATF for a relief in the firearm disability.

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1 Q I see. The partial pardon itself didn't
2 accomplish that. That then had to be taken to the
3 federal authorities and the federal authorities had
4 the final say as to whether or not --

5 A That's correct. It was just a step to go
6 through the ATF.

7 MR. GIUFFRA: Just to clarify, were you
8 convicted of state offenses or federal offenses?

9 THE WITNESS: Federal.

10 MR. COLE: That's why I'm trying to clear
11 this up. Apparently what he's testified to is the
12 federal authorities needed action on the part of the
13 state government in order to process his application,
14 if I'm understanding.

15 THE WITNESS: That's correct. And you can
16 check with your ATF office here, and they'll tell you
17 the same thing.

18 MR. GIUFFRA: Off the record.

19 (Discussion off the record.)

20 (Recess.)

21 EXAMINATION

22 BY MR. FEUER:

1 Q Mr. Lasater, let me introduce myself
2 again. My name is Mitchell Feuer. I'm a counsel on
3 the Democratic staff of the Senate Banking
4 Committee. For purposes of this deposition, I'll be
5 asking you questions on behalf of the Democratic
6 members of the Senate Special Committee on
7 Whitewater.

8 If you don't hear my question, please let
9 me know and I will repeat it. If you don't
10 understand my question, please let me know and I will
11 rephrase it so that we understand each other. If you
12 need to take a break at any time or if you want to
13 confer with your counsel, please let me know and
14 we'll go off the record for that purpose.

15 A Very good.

16 Q Did Collins, Locke & Lasater and Lasater &
17 Company devote more resources to trading securities
18 than to underwriting securities?

19 A Yes. The majority of our business, the
20 majority of our income, majority of our commissions
21 was generated in the secondary market of mortgage
22 backs, treasuries, corporate bonds, municipal bonds.

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1 Q Was trading those securities more
2 profitable than underwriting those securities?

3 A Much more. I would estimate 98, 99 percent
4 of our money, our income was in the trading and 1 or
5 2 percent in underwritings.

6 Q Were the underwriters that participated in
7 bond issues for the AHDA and ADFA grouped in tiers?

8 A I don't believe so, but in my mind they
9 sort of were.

10 Q How were they grouped in your mind?

11 A The primary underwriting would have been,
12 like, tier 1. The larger regional firm is tier 2 and
13 the smaller regional firms tier 3.

14 Q And what would distinguish tier 1 from tier
15 2 from tier 3?

16 A In my opinion, it would be the amount of
17 bonds and the amount of management fee that was paid
18 to each of the firms.

19 Q Did underwriters in tier 1 receive more
20 management fees and a larger allocation of bonds than
21 underwriters in tier 2?

22 A Yes.

1 Q And did underwriters in tier 2 receive more
2 management fees and a greater allocation of bonds
3 than underwriters in tier 3?

4 A Yes.

5 Q Which tier were Collins, Locke & Lasater
6 and Lasater & Company in?

7 A In my opinion, it would have been in the
8 bottom tier.

9 Q In tier 3?

10 A Right.

11 Q Would Collins, Locke & Lasater, and Lasater
12 & Company have received more management fees if they
13 had been in tier 2?

14 A Yes.

15 Q Would those firms have received a greater
16 allocation of bonds in the bond issue if they had
17 been in tier 2?

18 A Yes, in my opinion we would have.

19 MR. O'CALLAGHAN: Just for clarification,
20 when you are saying "if they had been in tier 2,"
21 that is if someone else had put them in tier 2, or if
22 they had the resources to be in tier 2?

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1 MR. FEUER: I don't think that distinction
2 is relevant to the question. The question is what --
3 had they been in tier 2. I don't think that's
4 relevant to my question.

5 MR. O'CALLAGHAN: Well, it's making an
6 assumption that they could have been in tier 2
7 versus, you know, or is this like some fantastical,
8 you know, speculation that if they had the resources
9 to be in tier 2, would they get more money and more
10 bonds.

11 I just want to make sure it's clear that
12 you said you considered yourself to be in tier 3, not
13 whether or not you had the capability to be in tier 2
14 or 3, or if you are put in tier 3 because of the
15 resources your company had.

16 THE WITNESS: Well, we would have been, at
17 that point in time, the second largest net capital
18 firm in the city, and the way that I recall it, I
19 felt that we qualified to be in the other group
20 because of our net capital more so than anything
21 else.

22 MR. O'CALLAGHAN: Okay. And do you know

1 any reason why you felt you were put in tier 3?

2 MR. FEINSTEIN: Just for clarification,
3 Michael, I don't think he ever said -- he put himself
4 in tier 3.

5 THE WITNESS: Right.

6 MR. FEINSTEIN: He doesn't know whether the
7 agencies put them in any particular tier. This was
8 all based on his sense of how they line up.

9 MR. O'CALLAGHAN: I didn't understand if
10 that was, like, you felt you were in tier 3 or if
11 other people put you in tier -- you thought other
12 people put you in tier 3.

13 MR. FEINSTEIN: I think it was how he
14 thought of himself.

15 THE WITNESS: Right, how we thought of
16 ourselves as being in tier 3 and felt qualified to be
17 in tier 2.

18 MR. O'CALLAGHAN: I just wanted to make
19 sure that was clear because that wasn't clear
20 earlier. I didn't know if that was something that
21 was a function of your size or someone else's
22 perception, or your perception. I wanted to clear

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1 that up.

2 THE WITNESS: I think it's -- and I'm not
3 sure who makes the decision on those allocations.

4 MR. FEUER:

5 Q Did Collins, Locke & Lasater and Lasater &
6 Company stand to make a greater amount of money in
7 the AHDA and ADFA bond underwritings from the
8 management fees or from the sales of the bonds that
9 the firm was allocated?

10 A I believe that it would have been through
11 the management fees.

12 Q Would the firm have stood to make a greater
13 amount of money if the amount of bonds that the firm
14 had been allocated had been larger?

15 A Yes. So the answer to the question would
16 be both. Management -- you know, the more bonds you
17 get, the more management fee you get; the more money
18 you make on commissions, the more management fee you
19 get.

20 Q You testified earlier about political
21 contributions that you made. Did those political
22 contributions cause you any financial hardship?

1 MR. FEINSTEIN: You mean him individually?

2 MR. FEUER: Yes. .

3 THE WITNESS: No.

4 BY MR. FEUER:

5 Q Did you feel that your net worth at that
6 time was sufficient to allow you to make those
7 contributions comfortably?

8 A Yes.

9 Q Prior to your investment in Collins, Locke
10 & Lasater, had you been successful in other business
11 ventures?

12 A Yes.

13 Q And what were they?

14 A The first business I started was Scottie's
15 Hamburgers. I started that when I was 20 years old.

16 MR. FEINSTEIN: This is after graduating
17 from the University of McDonald's.

18 THE WITNESS: Yes, right after. And it was
19 a hamburger restaurant and we built 10 or 11; and I
20 think I sold my portion of it for a million 9.

21 Somewhere in there, we started Ponderosa Steak Houses
22 in '65 and I left in '72 with approximately 20

270

1 million in cash and stock.

2 I had -- in the middle '70s, I had the
3 leading money winning thoroughbred racing stable in
4 the world four years in a row. Still hold the record
5 for the most races ever won in a year, 494. Won the
6 Eclipse Award three years in a row, '74, '75 and
7 '76. In 1983 and '84, I sold my thoroughbred
8 holdings and farms for close to \$28 million. So it
9 wasn't a big financial strain on me.

10 BY MR. FEUER:

11 Q At the time of the creation of the Arkansas
12 Development Finance Authority, were you aware that
13 other private individuals made recommendations to the
14 governor regarding appointments to the ADFA board?

15 A I don't recall specific circumstances
16 surrounding that, but it was, you know, it was my
17 impression that that happened.

18 Q Were you aware that members of the state
19 legislature made recommendations to the governor
20 regarding appointments to the ADFA board?

21 A Yes, I was told that. And I was told by
22 Michael Drake that, when he was at Stephens, they did

1 the same.

2 Q Do you know which of the individuals
3 recommended by Lasater & Company to the governor for
4 appointment to the ADFA board eventually served on
5 the ADFA board?

6 A The only ones that I know of for sure at
7 this point was Margaret Davenport and Bill Mathis.

8 Q Would it surprise you to learn that, of the
9 individuals recommended by Lasater & Company, some
10 were appointed and some were not appointed?

11 A No. I knew they weren't all appointed.

12 Q Did the Clinton Administration, beginning
13 in January of 1983, pursue a policy of using a larger
14 number of bond underwriters than had been used under
15 the previous administration, that of Governor Frank
16 White?

17 A Yes, that's my understanding.

18 Q Did you have a belief at that time that the
19 use of a greater number of underwriters would be
20 advantageous to the state?

21 A Yes.

22 Q Why was that?

1 A It's just more people are represented. You
2 have more salespeople, greater distribution of bonds,
3 just more representation.

4 Q And would a greater number of people
5 selling the state of Arkansas's bonds allow the state
6 of Arkansas to raise money more cheaply?

7 A I'm not sure if that's possible. Mostly
8 the price is determined by the current market.

9 Q If a larger number of salespeople can
10 identify a greater demand for the bonds than could a
11 smaller number of salespeople, would that tend to
12 allow the state to raise money more cheaply?

13 A Somewhat, but not a great deal.

14 Q Did the Clinton Administration, beginning
15 in January 1983, have a policy of including Arkansas
16 firms among underwriters receiving state business?

17 A That's my understanding.

18 Q And were those two policies that I've asked
19 you about applied at the Arkansas Housing Development
20 Agency and the Arkansas Development Finance
21 Authority?

22 A That's my understanding.

1 MR. O'CALLAGHAN: What was the first
2 policy?

3 MR. FEUER: The first policy was using a --
4 did you understand my question to be that the first
5 policy was using a greater number of underwriters,
6 and the second policy was favoring inclusion of
7 Arkansas firms?

8 THE WITNESS: Right.

9 MR. O'CALLAGHAN: Okay. Sorry.

10 BY MR. FEUER:

11 Q Did Governor Clinton stop by a Christmas
12 party that Lasater & company gave at the Little Rock
13 Country Club?

14 A What I recall is Governor Clinton was
15 already there at a function and saw that we were
16 there, and on his way out, he stopped in for a couple
17 minutes.

18 Q For what purpose did University of Arkansas
19 athletic coaches use Lasater planes?

20 A Going to football or basketball games or
21 maybe meetings in Little Rock.

22 Q Did you regard making the Lasater planes

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1 available to the University of Arkansas coaches as a
2 civil gesture or a gesture of boosterism in the
3 state?

4 A Both.

5 Q And did you consider making the planes
6 available to Governor Clinton in the same regard?

7 A Yes. I think Sister Teresa used our plane
8 at one point, too, to go from Little Rock to
9 Los Angeles.

10 Q Sister Teresa didn't give you any bond
11 underwriting business, did she?

12 A No.

13 MR. O'CALLAGHAN: Mother Teresa.

14 THE WITNESS: Yes, it was Sister Teresa
15 then.

16 BY MR. FEUER:

17 Q When Lasater & Company underwrote bonds for
18 the state police commission, was Lasater & Company at
19 risk on those bonds?

20 A Yes.

21 Q Did Lasater & Company's ability to make
22 money on the transaction depend in part on Lasater &

1 Company's ability to sell those bonds to investors?

2 A Yes.

3 Q And was that true of the bonds underwritten
4 for the AHDA and ADFA as well?

5 A Right.

6 Q To your knowledge, have any of the bonds
7 underwritten by Collins, Locke & Lasater or Lasater &
8 Company for the AHDA, ADFA or Arkansas state police
9 commission gone into default?

10 A Not to my knowledge.

11 Q To your knowledge, has every investor who
12 purchased one of those bonds and continued to hold it
13 received all interest and principal payments to which
14 they're entitled?

15 A Yes.

16 Q Were the bonds underwritten by Collins,
17 Locke & Lasater and Lasater & Company for the AHDA,
18 ADFA and state police commission accompanied by
19 official statements?

20 A I think they would have to have been.

21 Q Did those official statements identify the
22 underwriters of the bonds and provide details about

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1 the underwriting arrangements?

2 A That's my understanding.

3 MR. FEUER: I have no more questions at
4 this time.

5 EXAMINATION

6 BY MR. O'CALLAGHAN:

7 Q I just have a couple quick ones in response
8 to a couple of Mr. Feuer's questions. Mr. Feuer
9 asked you earlier about the tiers of underwriters and
10 you said you believed that you thought you were tier
11 3. And then you said that tier 3 underwriters didn't
12 get as many bonds as the other tiers?

13 A That's my understanding.

14 Q Now the decision on how many bonds each
15 underwriter got was made by the lead underwriter;
16 isn't that right?

17 A I believe so.

18 Q It wasn't made by the issuing agency, was
19 it?

20 A I don't think so.

21 Q Mr. Feuer asked you if some of the people
22 you had recommended for the ADFA board had not been

1 reappointed and you said you would not be surprised
2 to hear that not all of them had been appointed or
3 reappointed; is that what you said?

4 A That's what I said.

5 Q Do you know if the majority of the people
6 you recommended for appointment or reappointment were
7 appointed or reappointed to the ADFA board?

8 A I don't know that.

9 Q And Mr. Feuer asked you earlier if you made
10 planes available to University of Arkansas staff
11 members or officials, and you said that you had; is
12 that right, University of Arkansas?

13 A University of Arkansas and what?

14 Q Officials or staff members, employees of
15 the University of Arkansas.

16 A Yes.

17 Q And we also saw earlier that didn't Lasater
18 & Company also bid on or have interest in receiving a
19 contract to do underwriting for the University of
20 Arkansas?

21 A No, I don't think we ever did.

22 Q Do you have any interest in the stadium

1 project for the University of Arkansas?

2 A Yes, but we didn't participate in that.
3 That was done by Stephens.

4 Q But did you compete for that?

5 A Yes.

6 MR. O'CALLAGHAN: I have no further
7 questions.

8 MR. FEINSTEIN: Let me ask one just to
9 follow-up for clarification.

10 Did you, subsequent to the time that you
11 competed for and lost the stadium financing
12 opportunity, did you continue to make the plane
13 available to University of Arkansas coaches?

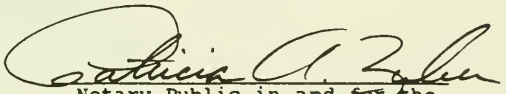
14 THE WITNESS: No.

15 MR. O'CALLAGHAN: That's all the questions
16 we have for you now. Off the record.

17 (Whereupon, at 5:22 p.m., the deposition
18 was concluded.)
19
20

21 DANNY RAY LASATER
22

I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

**DEPOSITION OF JAMES N. PATTERSON
IN RE: S. RES. 120**

THURSDAY, FEBRUARY 22, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of JAMES N. PATTERSON, called
for examination pursuant to notice of deposition, at 5:10 p.m. in
Room 640-A of the Hart Senate Office Building, before CARMEN
BUNCH, a Notary Public within and for the District of Columbia,
when were present:

LOUIS J. GICALE, Esq.
Majority Deputy Special Counsel
LANCE COLE, Esq.
Minority Deputy Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

REX M. TERRY, Esq.
Hardin, Jesson, Dawson & Terry
Superior Federal Tower
5000 Rogers Avenue
Suite 500
Fort Smith, Arkansas 72917-0127
On behalf of the Deponent.

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P R O C E E D I N G S

MR. GICALE: Mr. Patterson, do you consent to being sworn over the phone by the stenographer?

MR. PATTERSON: I do.

Whereupon,

JAMES N. PATTERSON

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GICALE:

Q Mr. Patterson, could you please state your full name.

A James Norman Patterson.

Q How do you spell Lavaca?

A L-a-v-a-c-a.

Q Now, Mr. Patterson, you're appearing in your attorney's office, Mr. Terry.

Mr. Terry, could you just recite your name

4

and business address and phone number.

MR. TERRY: Counsel for Mr. Patterson. The name is Rex M. Terry. I'm a lawyer in Fort Smith.

Q And what's your business address?

MR. TERRY: 5000 Rogers, R-o-g-e-r-s, Avenue, Suite 5700, Fort Smith, Arkansas 72903.

MR. COLE: Could you give your phone number for the record, Mr. Terry.

MR. TERRY: Sure. 501-452-2200.

MR. COLE: Thank you.

BY MR. GICALE:

Q Mr. Patterson, this deposition is being conducted pursuant to Senate Resolution 120. The resolution establishes a Special Committee administered by the Senate Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, the Arkansas Development Finance Authority, and other related matters.

Section 1(b)(3)(A) and (B) of Senate Resolution 120 authorizes investigation and public

1 hearings into (A), the operation, solvency and
2 regulation of Madison Guaranty Savings & Loan
3 Association, and any subsidiary affiliate or other
4 entity owned or controlled by Madison Guaranty
5 Savings & Loan Association; (B), the activities,
6 investments and tax liability of Whitewater
7 Development Corporation, and as related to Whitewater
8 Development Corporation, of its officers, directors
9 or shareholders. This will be the focus of today's
10 deposition.

11 You were requested to testify last week, I
12 believe. This deposition is being taken in advance
13 of public hearings that are currently ongoing.

14 We'll be asking you a series of questions.
15 You've agreed to testify under oath. If you don't
16 understand a question, please let us know and we will
17 rephrase it. The stenographer will prepare a record
18 of questions and answers. The deposition will be
19 treated as Committee confidential until the
20 commencement of the hearings, or until Mr. Patterson
21 testifies, if indeed he is asked to testify.

22 Prior to the hearings, we will make

1 arrangements to have him review the transcript of his
2 deposition to make any corrections for transcription
3 on an errata sheet.

4 If he's called to testify at public
5 hearing, he will be permitted to have a copy of his
6 deposition transcript four days in advance of his
7 testimony. He may be represented by counsel, and I
8 note he is today.

9 Objections to the form of questions will be
10 noted for the record. Counsel may object on grounds
11 of privilege or relevance. The Committee Chairman
12 may rule on objections where the witness refuses to
13 answer a question.

14 Do you have any questions at this point?

15 A No, sir.
16
17
18

19 Q Do you have a present business address as
20 well?

21 A My business address is my post office box.

22 Q Where are you currently employed?

1 A I'm self-employed. I farm.

2 Q And how long have you been doing that?

3 A Basically all my life, but full-time for
4 the last year.

5 Q What did you do --

6 A I have investments.

7 Q Prior to doing this on a full-time basis,
8 what were you doing about a year ago?

9 A I worked for River Valley Bank and Trust.

10 Q Where is that located?

11 A B-a-r-l-i-n-g, Arkansas.

12 Q How long did you work there?

13 A 16 years.

14 Q In what capacity?

15 A I was president.

16 Q And prior to working at that bank as
17 president, where did you work?

18 A I worked for the bank of, I think it's last
19 name was Citizens Bank and Trust, Flippin, Arkansas.

20 Q What time period did you work there?

21 A Well, from memory I don't know exactly, but
22 from approximately 1972 to '79.

1 Q In what capacity?

2 A I was president.

3 Q Now, I asked your attorney earlier whether
4 or not you had any records in your possession with
5 respect to the topics that I outlined earlier. Do
6 you have any?

7 A No.

8 Q And therefore -- have you reviewed any
9 records in preparation for your testimony today?

10 A No.

11 Q Did you speak to anyone other than your
12 attorney prior to today's deposition with respect to
13 the substance of what you would be testifying to
14 today?

15 A No.

16 Q Going back to 1978, you were president of
17 Citizens Bank of Flippin at that time; correct?

18 A Yes, sir.

19 Q And were you involved in a real estate
20 transaction, I believe it is 101 River Development
21 Corporation?

22 A Yes.

1 Q Could you tell us the nature of that -- can
2 you describe that transaction, how that came about?

3 A It was just some property that was for sale
4 and a group of people that I was a member of
5 purchased it.

6 Q Where was the property located?

7 A Oh, in Marion County.

8 Q How much property was it?

9 A I don't remember exactly, but it was a
10 large tract of land.

11 Q Did you purchase it from a bankruptcy
12 court?

13 A I believe that's correct.

14 Q And when you said you did this with a group
15 of people, who were the people and was that a
16 corporation -- were they part of a corporation, or
17 what type of arrangement was it?

18 A I believe it was a corporation, and I
19 believe it was incorporated before anything -- any
20 business was ever transacted.

21 Q Was it incorporated -- the transaction
22 occurred in 1978; correct?

10

1 A I think so. You know, that sounds right.
2 You understand that --

3 Q You don't have any documents.

4 A -- I don't remember the exact date.

5 Q Do you recall how much time prior to the
6 purchase of the property and then subsequent sale of
7 various parcels that you incorporated?

8 A No. I didn't handle that.

9 Q Who did?

10 A Some of the other partners. There was a
11 CPA firm that was employed, and I assume that they
12 did that all correctly.

13 Q What was the name of that firm?

14 A I don't know.

15 Q Well, who were the other people involved in
16 this?

17 A The other persons involved in 101 River
18 Development, Incorporated?

19 Q Yes.

20 A The names were Terry Woods and I suppose
21 his wife. I don't know how they carried their
22 stock. Bernie -- Kearnie Carleton. K-e -- I don't

1 know how to spell it, I'm sorry. Hal Johnson.

2 Q Is it Hall?

3 A H-a-l. Hal Johnson. Dick -- Richard
4 Wendell, myself and Nancy Watts.

5 Q Is that Nancy Bell Watts?

6 A Nancy Bell Watts.

7 Q I'm sorry, are you saying something else?

8 We can't hear you.

9 A That's supposed to add up to 100 percent,
10 if I didn't forget somebody. Johnson had 10 percent
11 and Carleton had 10 percent and the other people had
12 20 percent.

13 Q Could you go over those percentages again?

14 A Everybody had 20 percent except Hal Johnson
15 and Kearnie Carleton, and they had 10 percent each.

16 Q Now, were you an officer of that
17 corporation?

18 A I don't really remember. If I was -- the
19 president was Terry Woods and the secretary was
20 Richard Wendell, and I don't know if the other people
21 had some kind of office roles or not.

22 Q Do you know how it was that you came to

1 purchase the property from the bankruptcy court?

2 A You mean how 101 came to purchase it?

3 Q Yes. Whose idea was it to do this?

4 A Terry Woods's.

5 Q Did he have some interest in the property,
6 some information on it that he brought to the group,
7 or how was the group formed?

8 A Mr. Woods evidently was in -- the people
9 that were selling it contacted him. He's a licensed
10 broker and he was interested in creek and river
11 property as one of his specialties. And I assume --
12 you know, I never really asked, but he had lots of
13 paperwork -- I assume that they sent it to him
14 because he showed the paperwork to me, showing what
15 was being purchased.

16 Q All right. When he came to you, how did he
17 describe this offer, or this deal?

18 A Well, you know, he had some people that was
19 wanting to sell some land and he showed me what it
20 was. He called me and I went to his office. His
21 office was Pioneer Real Estate Company.

22 Q Well, did he want you to buy the whole

1 parcel yourself, or did he say that --

2 A No, no, he wanted some partners.

3 Q So he want to enlist you as one of the
4 partners?

5 A Yes.

6 Q And did he already have some other people
7 lined up?

8 A No, I don't think so.

9 Q You were the first person he approached?

10 A I believe that's correct.

11 Q Did he indicate that he approached you
12 because he felt that he needed some assistance in
13 terms of financing?

14 A No.

15 Q Had you had any prior business dealings
16 with Mr. Woods?

17 A You'd have to define what "prior business
18 dealings" are.

19 Q Well --

20 A It was a small county and, you know, we
21 were the only young people there. Everybody else was
22 old and had money.

1 Q Okay. So he was a businessman in the
2 community, a realtor that you -- had you had any
3 dealings with him, other than investments with him?
4 And not through the bank.

5 A I would assume he might have bought or sold
6 some property for me, but I can't remember. He was
7 one of the three major real estate firms in Marion
8 County.

9 Q Was Chris Wade involved in this property at
10 this point?

11 A No.

12 Q When did he get involved with this
13 property?

14 A I don't know that he was ever involved. To
15 my knowledge he was not.

16 Q Are you familiar with Ozarks Realty?

17 A Yes.

18 Q We have in front of us an offer and
19 acceptance for a piece of property, 220 acres, and
20 this is the property we're going to be asking you
21 about today. It's the property that was sold to the
22 McDougals and the Clintons.

1 A Okay.

2 Q And there is a -- it's signed apparently by
3 you, at the bottom, as seller on behalf of 101 River
4 Development Corporation, and on the left-hand side is
5 Ozarks Realty company as an agent by Chris Wade.

6 Do you recall that?

7 A I don't recall, but that would -- Mr. Wade
8 was the realtor that sold McDougal and Clinton the
9 property. The tract of property that you questioned
10 me on, after it was purchased and while it was being
11 purchased, under the terms of the purchase was
12 actively pursued to be resold, was listed with all
13 the real estate companies in that area. Mr. Wade was
14 the person who sold this property.

15 Q Well, was there some understanding when
16 Mr. Woods came to you that you would -- your group
17 would buy this property from the bankruptcy court and
18 basically sell it off almost simultaneously --
19 simultaneously or almost simultaneously, retaining a
20 small portion for yourselves?

21 A Say that again, I don't understand.

22 Q Well, was there some understanding that

1 your group would buy the property and
2 simultaneously -- with the understanding that you
3 would simultaneously sell off parcels of that
4 property?

5 A No.

6 Q There was no such understanding?

7 A Not as you described.

8 Q What was the understanding?

9 A It was purchased by our group to be sold as
10 high and as profitably as it could be sold for.

11 Q Did you obtain a mortgage or financing for
12 it?

13 A We're talking about -- we purchased the
14 property.

15 Q How did you purchase it, for how much?

16 A I've forgotten the amount, but in round
17 figures, it seems like it was 1.3 million.

18 Q And how did you pay for it?

19 A As it turned out, with proceeds from the
20 sales of the property.

21 Q Well, you can't sell it until you own it;
22 right?

1 A Well, certainly. We had rights to the
2 property. In other words, the people that wanted to
3 sell it sold it to us, we put up a certain amount of
4 money, which I don't remember, but we had it bought
5 subject to certain things. And then we turned around
6 and sold it to other people subject to certain
7 things.

8 Q But was your purchase contingent on having
9 some other buyers for it?

10 A No.

11 Q It was not?

12 A No.

13 Q Well, if you didn't have the buyers, how
14 did you intend to finance it?

15 A Well, I assume that would have been our
16 business, that's why there was several people
17 involved and we would have had to come up with the
18 money.

19 Q Well, were you going to come up with this
20 money out of your pockets, or were you going to
21 borrow it?

22 A Well, it depends on how much we would have

18

1 had to come up with. We would have had to borrow
2 it. My part, I would have had to borrow it.

3 Q Well, was this a firm commitment to buy
4 this property from the bankruptcy court, or was it
5 contingent on some sales to other people?

6 A No, it was a firm contingency to buy it but
7 there was -- if we hadn't have bought it, probably
8 all we would have lost was our earnest money.

9 Q What do you mean, "a firm contingency"?
10 Did you buy it based on some understanding that you
11 would put some money down on the property and have a
12 right to purchase it, but with the understanding that
13 you would sell off parcels and that's how you would
14 finance the purchase?

15 A That was our -- we intended to do that,
16 yes.

17 Q And if you couldn't do that, then --

18 A We bought the property for resale.

19 Q Right. And your -- so you put some money
20 down. Do you recall how much you put down?

21 A No, I don't.

22 MR. COLE: Did you sign a contract to

1 purchase the property, Mr. Patterson?

2 THE WITNESS: I did not, but I would assume
3 101 did. I don't know that for a fact.

4 MR. COLE: I'm sorry, when I said "you," I
5 meant 101. And so presumably you signed a contract
6 and you put down a deposit or an earnest money
7 deposit and you were then contractually obligated to
8 purchase the property; correct?

9 THE WITNESS: I believe that would be so,
10 subject to, oh, titling, approvable title and
11 approvable this and approvable -- you know, the
12 things that always takes a lot of work to find out.

13 MR. COLE: But getting to the point that I
14 think Mr. Gicale was getting to, do you recall
15 whether the contract that you signed had a financing
16 contingency? In other words, was it contingent upon
17 your obtaining financing?

18 THE WITNESS: I do not remember anything
19 like that.

20 MR. COLE: Okay. I'm just trying -- I
21 didn't mean to interrupt Mr. Gicale but I'm just
22 trying to clarify if I can.

20

1 BY MR. GICALE:

2 Q Well, but was it your plan, at the time
3 when you entered into this arrangement, to obtain
4 purchasers for this property so that you could have a
5 simultaneous -- so you could finance the purchase of
6 this property, and then if you did not obtain those
7 purchasers, if you did not find those purchasers, to
8 walk away from the deal?

9 A I don't remember anything being said
10 particularly in that manner. The purchase of the
11 property was to buy it so we could sell it.
12 Obviously we wanted to sell it as rapidly as we
13 could.

14 Q Did your group have \$1.3 million?

15 A Not in cash, no.

16 Q Well, did you have it in any form?

17 A Well, I would assume we could have borrowed
18 it, and we also knew that a lot of it would sell
19 pretty rapidly.

20 Q Well, did you make any arrangements to
21 borrow it?

22 A Not per se.

1 Q Well, what do you mean, "not per se"?

2 A Well, you know, we weren't to the point
3 that we were needing the money at that point in time.

4 Q Well, so you signed an offer to purchase
5 the property?

6 A And we felt sure that if we would have to
7 come up with the money, all of us together could
8 borrow enough money to come up with it.

9 Q But in the meantime you would do your best
10 to try to market the property and sell it?

11 A The property was listed in every real
12 estate office in that region, to my knowledge, with a
13 set price for each tract and well defined to what we
14 expected for it, and that is how Mr. Wade came to be
15 the realtor who sold -- I think he sold other tracts
16 of that land that we called 101.

17 Q Do you recall how many tracts you sold?

18 A No, I don't.

19 Q Do you recall whether or not you sold all
20 the tracts on the day you purchased -- you closed on
21 the deal and purchased the property?

22 A On the date that we closed on the deal, I

22

1 think we sold maybe half or two-thirds of all the
2 land. I don't remember exactly, but obviously it had
3 been quite a few months and this turned out to be a
4 very, very good deal.

5 Everybody was aware that it was a good
6 piece of property. Mr. Woods knew that the second
7 that he got the opportunity to buy it.

8 Q Now, how much per acre did you purchase
9 this property for, do you recall?

10 A I do not.

11 Q And the property was located in Marion
12 County on the Whitewater River?

13 A The name of it is the White River.

14 Q The White River.

15 A Whitewater is what I'm suffering.

16 Q No, I'm suffering. On the White River.
17 But how much of it faced the river?

18 A I don't remember for sure. I'm sure
19 there's maps on all of this that's been -- everybody
20 in the world -- you know, I left in '79. I had no
21 interest in any of it, as far as having maps and
22 tracts and charts. It was a wonderful piece of

1 property, two or three miles of river frontage, but I
2 don't remember exactly.

3 Q Did you retain any of the river frontage
4 for yourself?

5 A 101 still owns certain amounts of property.

6 Q But was the property that they retained on
7 the river?

8 A Yes.

9 Q How much of it?

10 A I'm not sure.

11 Q Do you recall how it was that the Clintons
12 and the McDougals came to your attention in terms of
13 an offer?

14 A Mr. Wade was the realtor, and like any
15 realtor, in other words he had the listing -- he had
16 what was called an open listing, like all the other
17 realtors in the county. Since I worked for the bank,
18 that was the only real requirement I remember I had.
19 I wanted to be sure that anybody that wanted to sell
20 it had the right to sell it for the same terms and
21 agreements as anybody else, because Watts was a
22 realtor and Woods was a realtor, and we certainly

1 wanted to be sure and develop the county as well as
2 we could. And everybody had the right to sell it.

3 Wade evidently knew McDougal, but I don't
4 know that for a fact, but McDougal was the first
5 person that I saw with Wade that wanted to buy it.

6 Q Wade brought McDougal in to see you on it?

7 A I'm not sure that he ever brought him in to
8 see me on it, but I'm sure he was at the bank because
9 I remember he had some fancy car which not too many
10 of them in Marion County, and I still don't remember
11 if it was a Jaguar or Mercedes Benz, but he was at
12 the bank and picked up an application for a loan.

13 Q How did Wade present the offer to you? Was
14 there some discussion between the two of you about
15 price initially, before there was a written offer, or
16 was it just a written offer presented to you?

17 MR. TERRY: Sir, this is Rex Terry. I
18 would like to object to the form of that question.
19 It's compound. Second objection to the form of the
20 question is "how did Wade present the offer to you,"
21 and I just want the record to be clear that this
22 offer was not presented to Mr. Patterson in his

1 individual capacity.

2 It was presented, I assume from what I'm
3 hearing so far, to 101, the corporation.

4 BY MR. GICALE:

5 Q I'll ask it more broadly than that. How
6 was the offer presented by Wade?

7 A As I remember it, it was turned in to Terry
8 Woods, who handled all the offers. And what was the
9 other part? I'm sorry.

10 Q Was it written or oral?

11 A I would assume it was written.

12 Q Was there any give and take on the price?

13 A No.

14 Q How did you find out about the offer that
15 Woods received from Wade? Did Wade give you a copy
16 of the offer -- I'm sorry, did Woods give you a copy
17 of Wade's offer to review?

18 A I don't remember.

19 Q Did Wade bring Mr. McDougal over to see you
20 along with the offer?

21 A I don't remember that at all. I don't
22 believe so.

1 Q Did Wade come to the bank to discuss with
2 you the possibility of McDougal obtaining financing
3 from your bank?

4 A No.

5 Q Do you know how it was that McDougal came
6 to the bank to obtain an application?

7 A Well, it was presented -- there was an
8 application presented to the board, and the board
9 reviewed the credit, and the loan was considered
10 worthwhile, and the loan was made to the parties that
11 signed the mortgage.

12 I think, if I remember, it was Bill Clinton
13 and I forgot how he signed it. It was Hillary
14 Rodham, I remember she signed that way. It was Susan
15 McDougal, and I forgot how the other McDougal
16 signed. I can't even think of his first name now.
17 The other -- Mr. McDougal.

18 Q Did you have anything to do with reviewing
19 the loan application?

20 A I don't remember right now.

21 Q Well, were you on the board?

22 A Yes.

- 1 Q Was Mr. Wade on the board?
2 A Yes.
3 Q Did you have a limitation in terms of the
4 amount of loan that you could approve at that time?
5 A I believe that's correct.
6 Q What was the limitation?
7 A I don't remember.
8 Q Was it 40- or \$45,000?
9 A That sounds appropriate, but it would have
10 been large enough to make a house deal more than
11 likely, but not large enough for the total size of
12 the bank.
13 Q What was the total size of the bank at that
14 time?
15 A I don't remember.
16 Q Does 5- to \$7 million seem about right?
17 A No, it would have seemed larger than that.
18 Q How much larger?
19 A I would have thought maybe 15- or 20
20 million, but some of these questions have been asked
21 before. And I've also read items in the -- in all
22 the newspapers the last two years and it makes it

- 1 blur together, so I -- you know, I'd even forgotten
2 that the loan was participated.
3 Q So you don't recall the size of your bank
4 except that you think it was bigger than -- larger
5 than 7 million and maybe up as much as 15- to 20
6 million?
7 A I think so. You know, that would be real
8 easy to look up.
9 Q What type of loans was your bank involved
10 in?
11 A Mostly real -- well, it was a small
12 community bank in a community that frequented a large
13 percentage of its business with this bank, so
14 basically, the bank made loans that people needed.
15 But if there was a general characteristic
16 of any loans that was made, we were a heavy real
17 estate lender.
18 Q What kind of real estate?
19 A Well, any kind of real estate I guess.
20 Q Are you talking about residential or
21 commercial?
22 A You'd have to define "commercial." In our

1 area what people would call -- you have residential
2 where people live, and then all the rest of the land
3 in Marion County is probably commercial because it's
4 for resale.

5 Q And what percentage of your loans were
6 residential?

7 A I'm sorry, I don't know.

8 Q You don't have any idea? Were most of your
9 loans residential loans at that time?

10 A I have -- I'm sure the records -- we kept
11 all those loans separated so we could easily know how
12 many car loans we had, how many signature loans, how
13 many residential loans that people lived in, how many
14 home loans we made that people rented to people and
15 how much were development land loans, which would be
16 your definition possibly for commercial. We had that
17 listed out and it would be easy to find out
18 somewhere, but I don't remember at all.

19 Q Do you recall the percentage of development
20 land loans you had?

21 A Not really. I'm sure -- you know, used to,
22 I would have been able to tell you each of those

30

1 figures individually because I worked with it, but
2 I've been at other places and I don't remember at
3 all.

4 Q Do you recall what the average housing loan
5 was at about that time?

6 MR. TERRY: You mean amount, sir?

7 MR. GICALE: Yes.

8 THE WITNESS: I would think that the
9 average house that was built in Marion County at that
10 time, from my memory, was around \$30,000.

11 BY MR. GICALE:

12 Q And what about the average real estate
13 development loan?

14 A Now we're into something that there's no
15 such answer as average because you'd have to have
16 mean, and there was a very wide difference in various
17 loans there. The range would be so high that average
18 wouldn't mean anything.

19 We made \$500 loans to people and we made
20 very large loans to people.

21 Q The loan on this property to the McDougals
22 and Clintons was \$182,000, and that was for

1 undeveloped property; correct?

2 A That's -- you know, I don't remember the
3 exact figure, but from the last two years I've had
4 enough information given to me, I think about 180,000
5 is right.

6 Q Was that, compared to the other loans for
7 undeveloped property at that time, was that
8 considered greater or smaller?

9 A I don't understand that question. Greater
10 and smaller like percentage per acre, percentage
11 dollar purchased, percentage -- I'm not trying to be
12 awkward. I just want to do you a good job.

13 Q I understand. \$182,000 loan, was that one
14 of your larger loans for undeveloped property?

15 A I believe that would be, yes, the amount
16 would be larger.

17 Q Did you have a limitation at that time --
18 I'm sorry.

19 Did your bank have a limitation in terms of
20 how much of a commercial loan it could get involved
21 in for undeveloped property?

22 A Yes.

1 Q Yes?

2 A Yes.

3 Q What was that limitation?

4 A I don't remember.

5 Q As a result of that limitation, was your
6 bank required to get another bank to participate in
7 this loan?

8 A Yes, I had forgotten that, but an FBI agent
9 showed me some documents where we participated 50/50
10 with that loan, with Union National Bank of Little
11 Rock, if I remember the documents correctly.

12 Q And again, why did you participate with
13 Union Bank of Little Rock?

14 A It would be laws; the total loan was larger
15 than our legal loan limit for that loan.

16 Q For that kind of loan for undeveloped
17 property?

18 A Yes. I think that was your question, and
19 the answer is yes.

20 Q Now, the original offer for this
21 property -- and by the way, the offer was for 220
22 acres, more or less, the offer that you received from

1 the McDougals and the Clintons. Do you recall that?

2 A No, but that sounds right.

3 Q And it required that a \$20,000 deposit be
4 put down. Do you recall that?

5 A I recall that there would have to be a
6 deposit put down.

7 Q Do you recall that it was \$20,000?

8 A No, but I've seen documents on that the
9 last two years, and that is, I believe, correct, but
10 I didn't remember it.

11 Q By the way, the date, and I'm looking at a
12 document, the offer and acceptance is dated June 15,
13 1978. And I take it you've seen this document. Did
14 that refresh your recollection as to the date that
15 you signed the document?

16 A That I signed the document?

17 Q That you signed it or received it.

18 A I'm confused, I'm sorry.

19 MR. TERRY: Sir, this is Rex Terry. If you
20 have the document and you've got the date, could we
21 just know whether he signed it? I don't think he
22 remembers whether he signed the document.

34

1 THE WITNESS: I don't know what document --

2 MR. TERRY: He's talking about the offer
3 and acceptance.

4 Did Mr. Patterson sign on behalf of 101?

5 MR. GICALE: Yes.

6 MR. TERRY: And it was essentially on the
7 day you gave us?

8 MR. GICALE: Accepted on June 15, '78.

9 BY MR. GICALE:

10 Q Do you know?

11 A I'm sorry, I don't.

12 Q Do you recall when you accepted it on
13 behalf of 101 that you received a \$20,000 deposit, or
14 one was received on behalf of 101?

15 A I thought it went to Terry Woods is the way
16 I remember it. I thought Terry handled all that.

17 Q As the realtor, he held on to the deposit?

18 A Well, he would have been not only the
19 realtor but he was the president of 101, if I
20 remember right.

21 Q Do you know where the \$20,000 deposit came
22 from?

- 1 A I'm sorry?
- 2 Q Do you know where the \$20,000 deposit came
- 3 from?
- 4 A Well, I do now.
- 5 Q Where did it come from?
- 6 A Well, as I understand, it's been told to me
- 7 it came from a loan that they, the purchasers,
- 8 borrowed from Union National Bank.
- 9 Q The same bank that you asked to participate
- 10 in the mortgage; correct?
- 11 A That's correct.
- 12 Q Now, did you know that at the time?
- 13 A No.
- 14 Q Had you known that at the time, would you
- 15 have approved the loan?
- 16 A I've been asked that already, and there's
- 17 not a way I can honestly answer that. I don't know.
- 18 I don't know why I wouldn't have, but then I might
- 19 not have.
- 20 Q Well, had you been approving 100 percent
- 21 loans during that time period for undeveloped real
- 22 estate?

- 1 MR. COLE: I don't like to do this, but I
- 2 have to object to that question because in Mr. -- and
- 3 Mr. Patterson can respond to this, but from the
- 4 perspective of this bank, that would not have been a
- 5 100 percent loan. This bank was only loaning a 90
- 6 percent loan to value; is that correct,
- 7 Mr. Patterson?

8 THE WITNESS: That's correct.

9 BY MR. GICALE:

- 10 Q Well, would you have loaned during this
- 11 time period, would you have authorized a loan to
- 12 parties where the bank was supplying -- well, where
- 13 the total amount of the purchase price was being
- 14 financed, whether through your bank totally or
- 15 through your bank with the combination of another
- 16 bank, in this instance Union Bank?

17 Were you approving loan applications where

18 people were totally financing the purchase price of

19 the land?

- 20 MR. COLE: And just to make the question
- 21 complete, to round out the entire picture, I would
- 22 just add to what Mr. Gicale said, and where your bank

1 had a first mortgage position on the property that
2 was securing the loan, just to fairly state the
3 situation as I understand it.

4 MR. GICALE: That's fine.

5 MR. COLE: Now you've probably lost the
6 question entirely, Mr. Patterson.

7 THE WITNESS: Well, I'm trying to do a real
8 good job of following and answering your questions.

9 MR. COLE: It's not easy, I know.

10 THE WITNESS: You're asking me about
11 something that happened 16, 17, 18 years ago. Our
12 board was enthused with the Clinton/McDougal loan
13 application, we were very enthused with it. We gave
14 no preference to that loan. In other words -- I
15 think you didn't want to use an ethnic word -- but
16 there was no haggle on any of our business with any
17 purchasers, and there was no haggle at the bank on
18 any interest rates, and they were treated exactly
19 like any other customer.

20 But to tell you what we would have done
21 with any one customer or any or all customers, you
22 know, I know we financed 100 percent on people's cars

1 and on some little old houses.

2 On a big real estate deal, the board would
3 have been in charge of it, and realistically, the net
4 worth and the consideration and the down payment that
5 they made, I assume the board was very pleased with
6 it.

7 BY MR. GICALE:

8 Q No, but I'm talking about situations -- in
9 how many instances do you recall during that time
10 period, 1978, where you approved loans --

11 A Me or the bank?

12 Q You or the bank. You or the board, you up
13 to your limit and the board up to its limit. In how
14 many instances do you recall approving loans for
15 undeveloped property where the purchase was 100
16 percent financed?

17 MR. COLE: That's a misleading question.

18 MR. GICALE: No, it's not. 100 percent
19 financing. Whether that be by your bank or by a
20 combination of your bank and some other bank, or some
21 other loan?

22 MR. COLE: Did it matter to you,

1 Mr. Patterson, where the \$20,000 was coming from, as
2 long as the 20,000 --

3 MR. GICALE: I would like an answer to my
4 question.

5 MR. COLE: Your question is misleading but
6 he can answer it.

7 MR. GICALE: I don't think that it is.
8 It's pretty straightforward.

9 THE WITNESS: I don't remember -- I'm
10 answering question number one. I don't remember
11 specifically any loans where we lent 100 percent on
12 anything. There's probably loans that we lent --
13 see, if you-all go back and check everything that I
14 and the bank has done, you'll probably find loans we
15 lent 120 percent on, and you will probably find loans
16 we didn't lend 50 percent on. And that's just
17 community country banking.

18 I mean, I'm sure I'm sitting here and if
19 you-all have the documents, I'm sure there's a guy
20 that I lent 125 or 130 percent on a home that he was
21 remodeling and doing a lot of work on.

22 Your question said undeveloped property.

1 Actually in this case, your and my interpretation of
2 undeveloped property is just not comparable, so --
3 the White River and the beautiful view and all that
4 area, that's not -- the only reason it's undeveloped
5 is because it hadn't ever been for sale.

6 BY MR. GICALE:

7 Q What's your definition of "developed"?

8 A Developed property is property that is
9 ready to be sold to another buyer.

10 Q Without any roads or any improvements on
11 the property?

12 A My definition of developed property for
13 that region was property that could be sold to
14 somebody else.

15 Q Was that a standard definition of developed
16 property during that time period, an accepted
17 definition?

18 A I don't know.

19 Q Are you aware of the fact that some people
20 refer to developed property as property that has some
21 improvements to it, like roads and perhaps sewer
22 systems or something of that sort?

1 A Yes, sir. You know, I am country and rural
2 but I realize that they have paved roads and city
3 water and natural gas and all those things, but --

4 Q Even in places like Arkansas.

5 A Yeah. And this has made us look real bad
6 and I hate that, but the truth is you can't legally
7 run electricity to property if the people that own it
8 won't let you do it.

9 Q I understand that, but are you telling me
10 that other bankers down there in Arkansas don't
11 consider developed property to include property that
12 has roads put on it or some access to it, that they
13 define --

14 MR. TERRY: Let me suggest -- I object to
15 the form of that question. Let's try to elicit facts
16 instead of arguing with the witness, please.

17 MR. GICALE: I'm attempting to elicit
18 facts.

19 MR. TERRY: You're asking him hypothetical
20 questions about what other bankers in Arkansas did in
21 1978, and that's not a fair, good faith attempt to
22 elicit facts.

1 MR. GICALE: I would just like a good faith
2 response. I mean, is he saying that the property,
3 without any road improvements or any other kinds of
4 improvements, was -- in this instance, this 220
5 acres, this was developed property?

6 THE WITNESS: No, it wasn't developed
7 property the way you would be discussing it.

8 BY MR. GICALE:

9 Q Well, was it developed property, in your
10 eyes, without those improvements?

11 MR. COLE: I've lost the point --

12 THE WITNESS: Probably not.

13 MR. COLE: I've lost the point of this line
14 of questioning.

15 BY MR. GICALE:

16 Q I'm getting to the point. The point is if
17 there was similar property down there, were there
18 instances where property that was similar, that is to
19 say raw land without any roads or any improvements,
20 were there instances where your bank, you or your
21 bank, allowed financing for the purchase of that
22 property, knowing that the purchase was going to be

1 financed entirely, without any equity? And not just
2 by your bank but through a combination of your bank
3 and some other loan.

4 A I'm sorry, what was the question?

5 Q Were there instances in 1978 where your
6 bank approved loans for undeveloped property, like
7 this Whitewater property --

8 A I would not remember instances but I am
9 sure it was done quite often in that region. All the
10 realtors that wanted to buy land would go into any of
11 the banks in that area and they would get -- I'm
12 assuming 100 percent financing because most of them
13 had good financial statements.

14 And I feel real sure that realtors like
15 Wade and lots of the other biggies in that region
16 could not only get 100 percent financing, but they
17 would get as much financing as was required to put
18 water, streets or whatever was involved in it. I
19 don't remember any specific instances.

20 MR. COLE: I think you've just raised an
21 important point, Mr. Patterson, that may be clear to
22 you but to someone else reading this record may not

1 be so clear. When you say sufficient financing to
2 put water, streets et cetera, on the property, are
3 you testifying that the bank might loan a developer
4 enough money not only to purchase the property but
5 also an amount in excess of that to do initial
6 development work?

7 THE WITNESS: Certainly.

8 MR. COLE: So to go to what Mr. Gicale has
9 been questioning you about for the last several
10 minutes, you're testifying that it would not have
11 been an unusual banking practice at that time and in
12 that area to make loans that were even in excess of
13 100 percent of the purchase price of a piece of
14 undeveloped property; is that correct?

15 THE WITNESS: That's correct.

16 MR. COLE: I'm just trying to help,
17 Mr. Gicale.

18 MR. GICALE: Thanks for your help,
19 Mr. Cole, but I don't need it.

20 BY MR. GICALE:

21 Q Mr. Patterson, wasn't it standard practice
22 during 1978 for banks to require that people who

1 applied for mortgages coming up with some amount, 10
2 or 20 percent down, before they were able to obtain a
3 loan? Wasn't that pretty much standard practice
4 then?

5 MR. TERRY: Mr. Gicale, are you referring
6 to real property loans or home loans, car loans or
7 what type? Could you confine the question, please?

8 BY MR. GICALE:

9 Q Sure. Real property loans and --

10 A That would be a normal policy, sir.

11 Q Again, do you recall whether you reviewed
12 and/or recommended approval of this loan?

13 A I would not have recommended it since I was
14 involved in 101.

15 Q So did you abstain from a vote on this
16 loan?

17 A I don't remember. It was well discussed
18 and it was not my loan. Mr. Wade was the person that
19 presented the loan in my mind, but I don't remember
20 that. There would be board minutes that would show
21 exactly what was said.

22 Q So a loan like this would be presented to

1 the board and they would vote on it? Is that what
2 would happen?

3 A Well, probably was presented one month and
4 then voted on the next month, or -- I don't know.
5 Maybe at a committee meeting. We're talking how you
6 would -- this type of loan, this type of loan would
7 be -- there would be information presented and then
8 it would be voted on later, the next week or the next
9 month.

10 Q So you don't recall voting on this loan,
11 you don't believe you did; correct?

12 A I just don't remember.

13 Q Because you think you had a conflict? You
14 feel you had a conflict; correct?

15 A No, I don't believe there was any
16 conflict. Everybody knew exactly my position.

17 Q Well, you said something about your
18 interest in 101.

19 A Well, I have an interest in it, but I
20 didn't in any way mean that I had a conflict.

21 Q You didn't feel you had a conflict in terms
22 of approving a loan that would assist you in the sale

1 of this property?

2 A I didn't feel that I should make the loan.

3 Q You didn't feel you should make the loan?

4 A I didn't feel that I would be the person
5 that would make the loan.

6 Q You thought that someone else needed to
7 approve it; correct?

8 A From my memory, or that's the way I think
9 of it.

10 Q All right. But did you get involved in
11 evaluating the loan in any way for the bank, or
12 making any recommendation at all to the board?

13 A I don't think so, because I really don't
14 remember enough about the financial statements of the
15 people, and I feel like I would have -- if I'd
16 reviewed it all, I think I would have remembered more
17 about it.

18 Q Did you receive financial statements from
19 the Clintons, or a financial statement from the
20 Clintons?

21 A I think so, but I don't remember.

22 Q Did you request one?

1 A Well, I think the bank would have requested
2 one and I would have assumed that the bank got one
3 and that somebody reviewed it, but I don't remember.

4 Q Was there someone else in the bank that you
5 assigned to handle this work?

6 A I would not have assigned it. There were
7 other people in the bank that handled all these
8 loans. There was two or three other loan officers
9 that made loans.

10 Q Would Mr. Burge have been one of them?

11 A He well could have been but I don't
12 remember.

13 Q Did you discuss with Mr. Burge or whoever
14 might have handled it, whether or not the income or
15 assets of these individuals was sufficient to cover
16 the loan in the event that there was a default?

17 A I don't remember.

18 (Recess.)

19 BY MR. GICALE:

20 Q When we left off, you don't remember
21 reviewing the financial information, you don't know
22 whether or not you received any, and you don't

1 remember discussing it with anyone else at the bank;
2 correct?

3 A I would have thought that we would have
4 received some. And if we received it, I would have
5 looked at it, but I don't remember anything about it
6 particularly.

7 Q Do you remember any discussion with
8 McDougal or Wade or the Clintons about the payout
9 period on this loan, or how it would be amortized and
10 how they would make payments on it?

11 A No.

12 Q Was there any discussion about whether they
13 would be selling pieces of this property by virtue of
14 land contracts, or in some other form?

15 A From my memory, as I sit here and think of
16 it, the obvious thing that they were planning to do,
17 and McDougal had a track record of developing
18 property -- I remember that being discussed, I assume
19 at the board meeting, it would be in the minutes but
20 I don't know for sure -- that what would happen would
21 be they would go in and spend an extensive amount of
22 money putting in the surveys and roads, and doing all

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1 the things necessary to meet your terms of more
2 marketable, or your word was --

3 Q I think the term I used was "developed."
4 And by the way, that's not my term. That's a term
5 that's used not just by myself but other bankers in
6 Arkansas.

7 A Anyway, and as they would get all that,
8 then they were going to offer the property for being
9 resold.

10 Q But did they discuss -- do you recall
11 whether or not they discussed whether or not that
12 these would be warranty deeds or land contracts?

13 A I don't remember a discussion on that, but
14 there well could have been. The bank at that time up
15 there would have had a policy, subject to certain
16 conditions. They could sell it on a land contract to
17 people if, you know, we still had the first mortgage
18 and all that, all the assets of the contract were
19 pledged to the bank. I don't remember specifically
20 that being discussed.

21 Q Do you know whether or not the bank
22 discussed or gave some consideration to how long it

1 expected to -- strike that.

2 The initial loan was set up as a demand
3 note. Are you aware of that?

4 A No, but I would assume so. That would be
5 normal on that type of loan.

6 Q And describe to us the conditions under a
7 demand note. There was a six-month notice provision,
8 as I understand it.

9 A Well, I would have thought -- it might have
10 been six months back then. I think it might be a
11 year now. In other words, if we wanted our money
12 from the people, we would have to send them a
13 certified letter asking them to pay us in a certain
14 period of time.

15 Actually, if they breached some contracts,
16 I don't know that six months -- I mean, I think you
17 could probably have done it in 20 days. Like if they
18 hadn't built the roads or done something like that,
19 well then, the demand would have meant that we might
20 have asked them to pay it off substantially sooner
21 than six months.

22 Q Do you recall at the time whether there was

1 generally accepted banking practices there in
2 Arkansas, in Marion County, where in development
3 loans like this, that they were usually geared up to
4 be two- or three-year sellouts?

5 A You're asking me what is the normal
6 turnover for these type of loans?

7 Q What you recall as being the normal
8 turnover, and secondly, what the bank expected in
9 this instance.

10 A Well, normally the loans would pay out in
11 like three years and the people would get their
12 profit in six or seven. That's if there's escrow
13 contracts involved.

14 Q Now, how would they be -- these land
15 contracts would go on for how long normally?

16 A Well, a land contract can go anywhere
17 from -- any date that the parties agree to.

18 Q But during that time period for undeveloped
19 land, how long were the land contracts?

20 A Probably the longest would be 10 years.
21 That's just from my recollection. And you know,
22 different days you might remember different, but five

1 to 10 years.

2 Q And the interest rates, was there a cap on
3 the interest rates for those?

4 A Yes.

5 Q What was that?

6 A Well, I believe at that time I think it was
7 10 percent.

8 MR. COLE: I'm sorry, if I could ask one
9 clarifying question. Mr. Patterson, did that
10 interest rate cap that was in effect under Arkansas
11 law at that time apply to a private land sales
12 contract between an individual and a seller and a
13 buyer?

14 THE WITNESS: In my opinion it would have.

15 MR. COLE: I don't know the answer to the
16 question. I'm just asking.

17 THE WITNESS: I believe in my opinion it
18 would, but let me -- for your purpose, I'll volunteer
19 this: If you buy something for \$1000 an acre and you
20 pay 10 percent on it, your interest cost is \$100. If
21 you sell it for \$2000 an acre and charge 10 percent
22 on it, your cost is still 10 percent but you have

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1 \$200 income.

2 Is that clarifying what you're asking me?

3 In other words, there's more angles to this
4 than what you're --

5 BY MR. GICALE:

6 Q All I wanted to know was the general terms
7 of those contracts and what the -- whether there was
8 a cap on interest rates.

9 A I'm not sure that I'm qualified to say what
10 the general terms of those were, because so many
11 northern people were coming down here and buying the
12 property, and I'm sure they were buying it on all
13 types of different and various agreements, with
14 balloon balances.

15 I remember a lot of people that were
16 retiring with -- would pay nothing but interest until
17 a certain time, and then they would pay it off. I
18 can't remember the specifics of it, but I know that
19 to be so.

20 Q I'm just asking for what was typical in
21 1978, if you recall.

22 A I've answered as much as I know as to what

1 was typical.

2 Q Now, the demand note that you entered into
3 with the Clintons and the McDougals -- I'm sorry,
4 that the bank entered into with the Clintons and the
5 McDougals, was there a cap on that interest rate?

6 A No. Well, there was an Arkansas law, I
7 mean, that said what was it was. I would assume we
8 charged whatever that limit was.

9 Q But that rate exceeded 10 percent?

10 A I don't know. From my memory, whatever the
11 maximum that we could charge in Arkansas is what we
12 charged at that bank, everybody, unless there was a
13 CD or --

14 Q The initial rate on this was 10 percent but
15 there were -- at subsequent times, this note went up
16 to various other percentages.

17 A I was not involved there, I don't believe.

18 Q Are you aware of the fact -- strike that.

19 Now, when you say that normally the payout
20 was three years, how was that going to occur if the
21 sellers entered into land contracts for longer period
22 of time? How did the bank expect to --

1 A You asked me what realtors were
2 basically -- a lot of realtors developed property.
3 And you were pushing me real hard and I was trying to
4 be --

5 Q I'm not pushing you hard. I just want an
6 answer.

7 A I'm trying to respond.

8 The point is realtors sold land and they
9 would buy it for so many hundred dollars an acre and
10 they would sell it for a lot more. And they would
11 get down payments and the down payments would go into
12 what they owed the bank, and the monthly payments
13 would go into what they owed the bank.

14 Realistically, at some point in time, if
15 you got enough down payments and had enough payments
16 per month, why, it would pay off the first mortgage.

17 Realistically, after three years, you would
18 assume the bank would think that the property would
19 sell enough -- that the person that's borrowing from
20 us would sell enough that it would begin to be paid
21 off.

22 Q So the bank was basically looking to get

1 out of this in three years?

2 MR. TERRY: Objection to the form of that
3 question. That was not even your initial question,
4 Mr. Gicale.

5 MR. GICALE: I'll ask the question --

6 MR. TERRY: Let me finish my objection,
7 please.

8 MR. GICALE: Okay.

9 MR. TERRY: You asked the witness
10 hypothetically what the normal turnover was, and then
11 you turned to this loan. He's tried to tell you he
12 does not remember any specific thing about it, so I'm
13 going to object to your -- the form of that
14 question.

15 MR. GICALE: Well, I don't know that he
16 ever said that, but I'll ask the question again, if I
17 did ask it before.

18 BY MR. GICALE:

19 Q Do you remember any specific discussion
20 about the payout period on this loan, this
21 development?

22 A No.

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1 Q Do you recall that, approximately a year
2 later, a year after the initial loan in 1979, that
3 Mr. Burge from the bank changed the terms of the loan
4 so that some principal had to be paid off?

5 A I do not know that. Was I at the bank at
6 that time?

7 Q No. This would have been -- I believe the
8 first loan was August of 1978, and the date of the
9 letter from Mr. Burge -- if you could bear with me
10 for one moment. The date of the letter from
11 Mr. Burge is August 6, 1979.

12 A I was not at the bank at that time. I
13 mean, I had resigned. I had left the bank, I
14 believe, in March of '79.

15 Q So did you know -- so you knew nothing
16 about any change in terms or any discussion about any
17 change in terms of the loan in 1979?

18 A No, I had never heard the word "Whitewater"
19 or the corporation or anything until the election
20 four years ago.

21 Q Were you aware at all or made aware in any
22 way of whether or not the lots were selling, the lots

1 that the McDougals and Clintons had acquired, whether
2 or not they were selling during this time period, and
3 whether or not the bank had a concern about that?

4 A Okay, there's three concerns there. I had
5 no real interest or knowledge as to whether the lots
6 were selling or not. I never even remember thinking
7 of it. I do think I remember that theirs were not
8 selling nearly as fast as some of the other
9 realtors'. That's the first part.

10 The second part was did I -- I'm sorry, I
11 forgot.

12 Q Actually I thought that that was the second
13 part of it.

14 A I'm sorry, what was the first part?

15 Q No, no, I believe you answered the
16 question.

17 So you don't think theirs were selling?

18 A I had heard that they were going to keep a
19 very large part of it for themselves, and I don't
20 even remember thinking or hearing about those people
21 for many years, really. I didn't know that Wade was
22 handling it for them. I guess I would assume that he

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1 was, if I had thought about it.

2 Q Did you meet the Clintons eventually when
3 this loan closed?

4 A You know, I've been asked that several
5 times, and I just can't remember it at all. But I
6 would have assumed that I did, but I don't remember
7 it. You know, I didn't circuit the same area that
8 the Clintons circuited, and I don't remember it, but
9 I might have.

10 Q So I take it, then, that you did not know
11 them, the Clintons?

12 A No. We worked in different circles. By
13 "know them," you mean like personally or --

14 Q Yes.

15 A I knew he was Attorney General.

16 MR. COLE: But you do recall, you testified
17 earlier, Mr. Patterson, that Mr. McDougal came by the
18 bank and either picked up or dropped off a loan
19 application?

20 THE WITNESS: Yes. I think he was by the
21 bank maybe more than once, seems like I can remember
22 him being at the bank various times.

1 MR. COLE: Were either --

2 THE WITNESS: He also could have been there
3 when they were developing. I'm not -- this was a
4 long time ago. They did a lot of roadwork down there
5 and he and Wade would have been involved in a lot of
6 the Caterpillar and surveys, and he would have been
7 at the bank quite a bit at that point.

8 MR. COLE: Were either of the Clintons ever
9 with him at the bank that you recall?

10 THE WITNESS: No, I don't remember that
11 being so.

12 MR. COLE: Do you have any recollection of
13 the Clintons ever being in Marion County at all?

14 THE WITNESS: Yes.

15 MR. COLE: In connection with this
16 transaction?

17 THE WITNESS: No.

18 MR. COLE: Sorry, Mr. Gicale. I didn't
19 mean to interrupt. I see you're looking for a
20 document so I thought I'd seize the opportunity.

21 MR. GICALE: No, that's fine.

22 BY MR. GICALE:

1 Q Well, were they in Marion County -- what
2 were they there for, for something that you were
3 involved in?

4 A Never anything I was involved in. I work
5 in another world than where they were at.

6 Did you ask me what they were there for
7 though?

8 Q No, unless you had some involvement with
9 them. Do you recall at some point in time after
10 Mr. Clinton's election in November of '78 and after
11 the Clintons and McDougals had purchased this
12 property that there was some newspaper stories about
13 this loan?

14 A I do remember vaguely and I'm trying to
15 remember. It made the newspaper when the property
16 was purchased. I remember Terry Woods and Nancy
17 Watts and some of them had their picture taken
18 holding a big banner type check, saying it was a real
19 large deal in Marion County. And it seems like there
20 was something in the paper when these people
21 purchased -- these were individual purchasers, you
22 know. I mean, I had never heard of Whitewater.

1 It would have been Clinton, his wife,
2 McDougal and his wife. And I believe I remember
3 them -- it being discussed that they had purchased
4 it. It was really well known in Marion County.
5 Didn't matter if it was in the paper or not. Every
6 person there would have known it, I believe.

7 Q Known the fact that they were purchasing or
8 that this larger transaction was going on?

9 A Both.

10 Q Because at the same time you sold about
11 two-thirds of the other parcels, I think you said?

12 A I didn't give an exact number, I hope --

13 Q No, you didn't.

14 A -- because I don't remember. You know, if
15 I was going to guess, I'd say there was 20 or 30
16 parcels, and I think the bank made 8 or 10 deals.
17 And I think there was 8 or 10 made some other place
18 and I think we wound up being kept with some. But I
19 don't remember any exact numbers.

20 Q But just to get a sense of this, was the
21 significance of the transaction the size of the sale,
22 or was it the fact that there was a sale to the newly

1 about to be elected governor?

2 A Well, I didn't know he was going to be
3 elected governor. But from my standpoint, I can
4 answer that. I remember what I thought about it.

5 McDougal had a very good track record of
6 going around and finding pieces of property to be
7 redeveloped, or if you want to say land that wasn't
8 developed and developed into something, but McDougal
9 did that for a living. And when he wanted that land
10 down there and he was planning on redeveloping it, it
11 made me feel better about the future of our county
12 because I felt like we would get substantial growth
13 out of it.

14 Q Okay. And when you thought that -- just to
15 clarify something, when you say that he had a record
16 of developing property, what did you view as
17 developing property?

18 A I don't remember enough about it to give
19 you any specifics, but if you will take a
20 generalization, McDougal had been in with -- you
21 know, yes, I'm a Republican and no, I don't have
22 anything to do with these people.

1 But Fulbright was an old senior citizen
2 here, and McDougal would go around and buy pieces of
3 property and then develop it, and make it be
4 something good for not only himself but everybody
5 that was involved in it.

6 Q Now, when you say "develop it," what do you
7 mean by that?

8 A Resell it.

9 Q Without putting any improvements on the
10 land?

11 A No, I think usually we put improvements on
12 the land. And I told you this was from my memory,
13 and what I remember as a general recognition, that
14 here was a person who was more of an astute developer
15 than I was, that wanted to develop this property.
16 And I kind of remember later when you were asking did
17 I know if they sold much or not, I remember thinking
18 when I heard they were going to keep a large piece
19 for themselves, and I don't know the time frame on
20 that, but that I kind of hated that because it's just
21 the most magnificent property in that county.

22 Q Now, do you recall anything else about the

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1 transaction, about the sale to the McDougals and the
2 Clintons?

3 A Do I what now?

4 Q Do you recall anything else about this
5 sale, about the sales transaction, the sale to the
6 McDougals and the Clintons, anything other than what
7 I've asked you so far?

8 A Well, nothing comes to mind immediately.

9 Q You don't recall seeing them at the
10 closing. Do you recall talking to them at all?

11 A "Talking to them," who?

12 Q The Clintons, about the loan or the
13 transaction at any time after the closing and until
14 you left in '79?

15 A I do not ever remember talking to either of
16 the Clintons. I do remember talking to McDougal
17 after the closing because of the roadwork that he was
18 doing down there. He had hired some of the people
19 that banked with the bank that we had Caterpillars
20 financed for, and it was -- I wanted to confirm that
21 he was going to actually do a lot of work.

22 And the bank in no way ever exercised any

1 influence over who he used, but he wound up using
2 some people that did a real good job and had a real
3 good reputation and was honest, and which we were
4 pleased that he used.

5 MR. COLE: Do you have any knowledge,
6 Mr. Patterson, as to how much funds Mr. McDougal
7 expended and what kind of improvements he made in the
8 property in the time period you're describing?

9 THE WITNESS: Well, just from general
10 recollection, I mean, I don't -- obviously it was not
11 my deal, it was not my business, but in terms of what
12 it cost to develop it and what he did, I'm asking for
13 clarification of your question.

14 MR. COLE: Just any general impression or
15 knowledge you have, I think would be helpful.

16 THE WITNESS: Okay. He would have had to
17 have built several roads and he would have had to
18 have done a lot of surveying, to survey into various
19 parcels that would be ready to remarket. And the
20 cost, I believe, that I remember -- and this is
21 before people told me what he had spent -- was about
22 anywhere from 45- to \$75,000. Since then I've heard

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1 that he spent 50.

2 MR. COLE: And did you actually observe
3 roads? I believe you testified that you made -- did
4 you go to the property and see that the work
5 physically was being done?

6 THE WITNESS: Yes, sir, I did. Now, you
7 understand us individuals bought some land down there
8 also. I mean, so --

9 BY MR. GICALE:

10 Q Now, when you say you bought it -- and I
11 guess that's how I would like to follow up.

12 Did there come a point in time when you
13 eventually sold off all of the property except for
14 some that you retained, a small amount that you
15 retained for yourself?

16 A No, sir.

17 Q What eventually happened with respect to
18 this corporation and this piece of property?

19 A Eventually, it has never happened. We have
20 an active -- we have a sleepy -- probably for you
21 people in Washington -- very backward little
22 corporation or whatever it is that sells a little

1 lots every now and then and we pay a lot of taxes on.

2 Q So you still own some of this property?

3 A Yes.

4 Q How much of it?

5 A I don't know. See, I'm not a very good
6 partner either. You've got on to me about everything
7 else. I trust the people up there and they will
8 manage it correctly.

9 Q Okay. So the corporation still exists and
10 still has retained some of the property?

11 MR. COLE: I think, Mr. Patterson, you may
12 not be the only investor in real estate in that part
13 of the state who took that approach, but --

14 THE WITNESS: I've had better luck.

15 MR. COLE: You don't have to comment on
16 that. Mr. Gicale is looking pained so I won't say
17 anything further.

18 MR. GICALE: There's no pain on my face.

19 BY MR. GICALE:

20 Q Mr. Patterson, when Mr. Wade initially --
21 I'm sorry, you believe it was Mr. Woods that came to
22 you or your corporation with this offer from the

1 Clintons and the McDougals?

2 A You've asked me a line of questions that
3 have never been asked before, and I can't really
4 remember. Woods was the president of the
5 corporation, and I thought that all the offers and
6 acceptances were turned in to him. I guess in the
7 cases where the bank financed them, maybe they came
8 to the bank, but I don't remember.

9 And I would assume -- and I thought this up
10 since you asked me a long time ago, a while ago.
11 Usually I think -- and I'm not a realtor and I'm not
12 an attorney -- but I believe that the deposit would
13 have had to go in a realtor account, a broker. We're
14 talking about a certified escrow account.

15 So I don't remember how it all was handled,
16 but it was handled, I feel like, correctly.

17 Q Well, did Wade or Woods, or anybody who
18 told you that this offer had been made, indicate to
19 you that in order to complete the purchase they
20 needed your assistance in getting some financing from
21 the bank?

22 A No, no. You mean the offer was subject to

1 financing?

2 Q Well, more specifically, that the offer was
3 subject to you assisting them in getting some
4 financing at the Citizens Bank of Flippin.

5 A I would not have assisted them. It would
6 have been a very normal -- we handled it very arm's
7 length. None of the people that invested in 101
8 borrowed any money from the bank that I worked at.

9 Q Do you know where they did borrow money to
10 finance it?

11 A Well, no, not -- I'm sure I was told at
12 various times, and it seems like I remember some --
13 but I would not want to hazard it because it would be
14 from memory.

15 Q But in this instance when this offer was
16 made, was there any request from Woods or Wade that
17 look -- that if you, Patterson, can assist the
18 McDougals and Clintons in obtaining financing for
19 this parcel, then that will assist in making this
20 deal?

21 A No, that would not have been a condition.
22 Wade was on the board, he was closer to the deal than

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1 I was. What's worrying me -- I mean, I'm sitting
2 here without anything.

3 I don't remember if an offer and acceptance
4 was made subject to financing, which means that they
5 didn't get the financing they got out of it. I don't
6 remember if it was done that way or not. It's very
7 normal to be done that way.

8 But I had nothing to do with them getting
9 or not getting the loan, as an individual.

10 Q And there was no understanding -- I take
11 it, then, that there was no understanding that you
12 would do that? You did not agree to that, to assist
13 them in getting a loan, I take it?

14 MR. COLE: Mr. Patterson --

15 BY MR. GICALE:

16 Q Is that correct?

17 A Right. You know, I would have never told
18 anybody that they could get a loan that I couldn't
19 approve, or that I wouldn't be allowed to qualify
20 for.

21 MR. COLE: Mr. Patterson, this is Lance
22 Cole. I don't want you to be disadvantaged by not

1 having the documents in front of you. I would like
2 to bring to your attention something that's on the
3 documents that we have.

4 There's an offer and acceptance dated June
5 15, 1978 that Mr. Gicale referred to earlier that you
6 signed -- or what appears to be your signature, on
7 behalf of 101 River Development Company. And it
8 states a price of \$880 per acre and the terms are
9 stated as in cash at closing, total purchase price to
10 be determined by survey, sale subject to buyer
11 obtaining suitable financing.

12 And I don't know what the legal
13 ramifications are of that language at that time, but
14 I assume that means that this contract is contingent
15 upon the buyers obtaining financing. I just bring
16 that to your attention.

17 THE WITNESS: I was kind of sitting here
18 worrying that maybe there was something on that.

19 BY MR. GICALE:

20 Q No, and I didn't mean to suggest --

21 A I'm sorry?

22 Q I didn't mean to suggest otherwise. All I

1 wanted to know was whether or not there was some
2 understanding that you would assist them in getting
3 financing from the Citizens Bank of --

4 A I think I covered that extremely clear, and
5 if I didn't let me say it again.

6 Very simply, most people that are
7 developers always put phrases on there where they can
8 get out of it if they want to. If they hadn't have
9 wanted to purchase it, they wouldn't have had to
10 because they would have said we couldn't get suitable
11 financing, like they wanted it for 8 percent or this
12 or that.

13 And I was not the person that ramroded
14 those loans, and I had nothing to do personally,
15 other than I would have been for them buying it
16 because I would have felt like it was good for the
17 area and the region.

18 Q And then did you ever have any discussion
19 with anybody about the loan after you left the bank
20 in 1979, the loan of the McDougals and the Clintons?

21 A Well, for how long a period of time and
22 when?

1 Q Well, did you have any discussion after you
2 left in 1979 about that loan?

3 A Yes, probably.

4 MR. TERRY: This is Rex Terry. Could you
5 qualify your question by giving us a time frame? And
6 here is the reason why. I think as you know that
7 Mr. Patterson was subpoenaed and has given testified
8 to the Grand Jury.

9 MR. GICALE: Prior to that.

10 MR. TERRY: Okay. That's what I wanted to
11 clarify. In other words, you're talking about from
12 the time the loan was made --

13 MR. GICALE: Since I don't know when he was
14 subpoenaed by the Grand Jury, I can't give you that
15 kind of time frame.

16 MR. TERRY: It was in 1994, I believe.

17 MR. GICALE: But my point is prior to 1994,
18 or whenever he was subpoenaed to the Grand Jury, had
19 he had -- prior to that time and subsequent to the
20 time he left the bank, had he had any discussions
21 with anybody about the loan, to the McDougals and the
22 Clintons.

1 THE WITNESS: The answer would be yes.

2 BY MR. GICALE:

3 Q And who would you have had discussions with
4 and when?

5 A I don't remember when, but it was probably
6 either Woods or Wade.

7 Q How many discussions did you have with
8 Woods or Wade about the loan?

9 A Well, I'm real uncomfortable because I am
10 very weak in remembering. It was so insignificant,
11 it was not something that I thought of very much, but
12 I remember thinking, when I first heard about it, I
13 thought that the bank had been paid off many years
14 earlier. And I found out not too many years ago that
15 they still owed -- somebody still owed a little bit
16 of money on it. And other than that, I can't really
17 remember anything specific.

18 Q But how did you come to talk to Woods or
19 Wade about the loan?

20 A Are you talking about the Clinton/McDougal
21 loan?

22 Q Yes, prior to talking to the Grand Jury and

1 subsequent to leaving the bank.

2 A I believe that there was a balance on that
3 loan and it must have been Wade because Woods would
4 not have been close to those people. And it must
5 have been Wade that wanted to refinance and pay off
6 at the bank I worked at three or four, so many years
7 ago, I don't know.

8 Q So Wade approached you about refinancing --

9 A No.

10 Q -- about having the new bank you worked at
11 refinancing the Citizens Bank of Flippin loan?

12 A No, I don't think so. That doesn't sound
13 right either, but --

14 Q Well, I don't want to put words in your
15 mouth. Just tell me what Wade --

16 A Well, I didn't know Wade was handling all
17 their deals until not many years ago, and Wade
18 needed -- Wade had gotten into an argument with the
19 RTC because they wouldn't honor deals that he had,
20 and we had made him loans on some of his deals to pay
21 off RTC, which all worked out very nicely.

22 MR. COLE: Just to be clear, these are

1 nothing to do with what's referred to as the
2 Whitewater property, Mr. Patterson; is that correct?

3 THE WITNESS: I think he was the realtor
4 for them.

5 BY MR. GICALE:

6 Q He was the realtor for the RTC?

7 A No, no, no. RTC had nothing to do with
8 Clinton or McDougal that I know of.

9 MR. COLE: That was my question.

10 THE WITNESS: Wade was the person that had
11 deals with RTC.

12 BY MR. GICALE:

13 Q No, I understand.

14 A And Wade voted to fire me in Flippin and we
15 weren't very close thereafter. But business is
16 business and not too many years ago, we did refinance
17 items from Wade that he had owed at other
18 institutions that went under and his indebtedness was
19 assumed by RTC.

20 I'm sorry I said too much in a way, all in
21 one question, but I tried to answer what you're
22 asking me.

1 Wade was involved in handling the
2 Clinton/McDougal property as a realtor, agent, broker
3 or something, I think.

4 Q But my initial question was, did there come
5 a time, subsequent to the time you left the bank and
6 prior to the time that you were requested to testify
7 before the Grand Jury, that you talked to someone
8 about the loan, the Clinton/McDougal loan?

9 A You know, I think there was. I think the
10 FBI showed me a document where Wade had paid off an
11 old loan. Maybe that's where I found that out.

12 Q Wade paid off a loan with respect to
13 Whitewater?

14 A Well --

15 Q Is that what you're talking about?

16 A Yeah, it seems so. In other words, Wade
17 assumed the balance or was responsible for it or -- I
18 don't know.

19 Q Did you -- well, other than that
20 conversation with the FBI agent, did you have any
21 other conversation with anybody about the
22 Clinton/McDougal loan?

1 A Well, that's what I told you a while ago.
2 I thought that I had, with either Woods or Wade, and
3 I really couldn't remember exact. And it does melt
4 and blur together with all the things that I've read
5 and the things that I've been asked. And I think so,
6 yes.

7 Q And what was the conversation about?

8 A I can't really remember. I answered that
9 in the affirmative, but I don't really remember what
10 or where.

11 Q Do you recall whether or not Wade was
12 attempting to obtain some financing?

13 A Well, Wade always attempted to get
14 financing.

15 Q Financing from the bank that you were at to
16 assist him in paying off some Whitewater debts?

17 A Well, I -- Wade applied for many loans at
18 the bank where I was at, and I believe he was
19 approved on all of them but maybe three, two or
20 three.

21 Q Now, which bank was this?

22 A This was River Valley Bank.

1 Q Where was that located again?

2 A Barling, Arkansas. Lavaca, L-a-v-a-c-a.

3 Q And you don't recall when this was that
4 Wade approached you about these loans?

5 A I don't even specifically remember anything
6 about it. I just want to be sure and try to answer
7 it, you know.

8 Q Do you recall any other conversations
9 about -- strike that.

10 My initial question was, do you recall
11 having any conversations -- talking to anybody about
12 the McDougal/Clinton loan, and you've tried to answer
13 and say you think that you may have had a
14 conversation with Woods or Wade and you're not sure
15 what was said. Is that your testimony at this point?

16 A At this point.

17 Q And you don't recall when the conversation
18 was?

19 A No.

20 Q And do you recall any other conversations
21 about that loan?

22 A I mean, since it came out in the

1 newspapers, there's been conversations. I mean,
2 people discuss it all the time. They know I was the
3 president of the bank at Flippin and I get asked
4 about it probably once a week or once a month.

5 Q Do you recall whether or not you had more
6 than one conversation with Woods or Wade about the
7 loan?

8 A I don't even specifically remember -- I
9 remember knowing that the loan wasn't paid off
10 supposedly, and I don't know where I got that
11 information. And by speculation, I would assume it
12 was somebody from that area.

13 Q Do you recall whether or not Wade made some
14 kind of application to that bank, River Valley Bank,
15 to obtain some financing so he could assist in
16 helping to pay off that loan at Citizens Bank?

17 A He might have.

18 MR. COLE: What time period are we talking
19 about here?

20 THE WITNESS: Oh, Wade didn't start doing
21 any business with us for years and years, so the last
22 three, four, five years, maybe six.

1 MR. COLE: Could it have been 1992?

2 THE WITNESS: Yeah, that would be four
3 years ago. Well could have been. As I said, we made
4 Wade quite a few loans.

5 BY MR. GICALE:

6 Q Do you recall whether his request for a
7 loan in this instance was granted?

8 A Like I think I said a while ago, Wade was
9 approved for nearly all the loans he applied for.
10 The only deals that I remember he was turned down on
11 was some very large real estate deals that were not
12 appropriate for us in the area we were in.

13 MR. COLE: Was one of those deals called
14 Campobello?

15 THE WITNESS: I don't remember that name.

16 BY MR. GICALE:

17 Q Do you recall any other conversations with
18 anyone at Citizens Bank of Flippin about the loan
19 from the time you left to the time that you testified
20 before the Grand Jury?

21 A Yeah, there was a guy up there, three or
22 four years later, they went through several

1 presidents, and he would have made me feel like that
2 they had paid off perfectly.

3 That's why I remember being surprised when
4 I heard that it hadn't been paid off.

5 Q Well, who was that?

6 A I think his name was Ritter.

7 Q Did he call you about the loan, or how did
8 you --

9 A No, we were just talking about some -- I
10 don't remember what and why we were talking. We were
11 not friends and we did not talk often, but, you know,
12 that was something I never thought of again after
13 1979 for years and years, but somehow or another, it
14 seems like I remember something about it.

15 Q You recall talking to Ritter and talking
16 about that particular loan?

17 A It might not have been Ritter. I forgot
18 all the presidents' names that they had. It would
19 seem like that's when I found out maybe that they
20 didn't sell a lot of their property and they were
21 going to keep it for themselves.

22 Q Do you recall conversations with anyone

1 else at the bank?

2 Let me give you another name. What about a
3 Mr. Proctor, did you discuss the McDougal/Clinton
4 loan with Mr. Proctor?

5 A I don't think, not that I can remember.

6 Q What about a Mr. Myers?

7 A Myers. Would he have been there before or
8 after Ritter?

9 Q Well, I'm asking you if you know.

10 A I don't remember.

11 Q With respect to the -- just a few more
12 questions on the Union Bank loan and -- not the down
13 payment but the participation of Union Bank.

14 Do you know who at Union Bank approved
15 their participation in this?

16 A No.

17 Q How involved were you in getting Union Bank
18 to participate?

19 A I don't believe I was involved. I had
20 forgotten that they had participated with us.

21 Q Do you remember a Mr. Jackson at that bank
22 at the time?

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1 A No, I don't know Mr. Jackson.

2 Q Do you recall any other conversations with
3 anyone else at Citizens Bank about the
4 Clinton/McDougal loan, other than what you've told
5 us?

6 A Not that I can think of at this time.

7 MR. GICALE: I have nothing further at this
8 point.

9 EXAMINATION

10 BY MR. COLE:

11 Q Mr. Patterson, this is Lance Cole for the
12 Minority. The way our procedure works here --

13 A Lance, I'm sorry, I didn't get your last
14 name.

15 Q Cole, C-o-l-e.

16 A Mr. Cole.

17 Q Yes. The way our procedure works here is
18 the Majority asks their questions first and then the
19 Minority gets to go. I apologize. I'll try to be
20 brief, but I would like to ask you a few follow-up
21 questions if you don't object.

22 You testified that the initial purchase of

1 the large tract of property by 101 River Development
2 Corporation was a large transaction for that area at
3 that time; is that correct?

4 A Yes, sir.

5 Q Focusing on the subsequent sale of the
6 smaller tract of some 230 acres to the Clintons and
7 the McDougals, that particular transaction, would
8 that have been considered a large transaction in that
9 area at that time?

10 A I'm sorry, let me think about that. It
11 would have been larger than average, you know, to
12 realtors and promoters and developers, it would not
13 have been a particularly large deal. But as an
14 average size deal that would have gone through the
15 courthouse, it would have been above average.

16 Q Well, I believe you testified that the --
17 that this deal -- that Mr. McDougal was known to you
18 as a developer; is that correct?

19 A Yes, sir.

20 Q So I'm sorry, I'm a little confused by your
21 last answer because I would have assumed that you
22 would have considered this a purchase by a developer,

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1 which is what I'm getting at.

2 A Yes, sir, I did. I'm sorry if I said
3 something incorrect or inappropriate. Ask me and let
4 me straighten it up.

5 MR. COLE: We have to go off the record
6 just for a moment.

7 (Recess.)

8 BY MR. COLE:

9 Q Back on the record.

10 Mr. Patterson, going back to the sale to
11 the Clintons and the McDougals, my question was
12 whether for -- let me rephrase my question.

13 Did you understand that the property that
14 the Clintons and the McDougals purchased was being
15 purchased to subdivide and resell in smaller
16 acreages?

17 A Yes.

18 Q And at that time in that part of the state,
19 had developers been making money on those kind of
20 ventures?

21 A Yes.

22 Q And had your bank made other loans to

1 developers who bought tracts of land in the size
2 range of around 200 acres to subdivide and resell in
3 smaller tracts?

4 A I would think so. It was normal.

5 Q I understand that this is close to 20 years
6 ago, so --

7 A Well, see, you scare me to this extent. I
8 don't remember any specifics but it was a normal
9 thing, being done all the time.

10 Q That's all I'm asking. That's exactly what
11 I was trying to ask, is whether this was an unusual
12 kind of transaction for that area at that time. I'm
13 not trying to trap you or anything like that. I'm
14 just trying to understand --

15 A It was a very normal deal, sir.

16 Q And the terms that the bank in Flippin made
17 the loan to the Clintons and the McDougals at, were
18 those terms comparable to terms that were offered to
19 other borrowers?

20 A I feel sure they were, yes.

21 Q So you don't have any recollection today
22 that the Clintons and the McDougals received any

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1 special or favorable treatment from the bank?

2 A Absolutely they did not.

3 Q And did your bank, and in particular your
4 board of directors, have any concerns about the
5 creditworthiness of this loan to the Clintons and the
6 McDougals at the time the loan was made?

7 A I don't remember any, and my only
8 recollection was that the people were pleased that
9 they were purchasing property in our county, in the
10 county that we lived in.

11 Q And again, just trying to get an
12 understanding for myself and for the record of real
13 estate development practices in that area at that
14 time, did developers often buy tracts of land and
15 subdivide it, and then sell the smaller parcels on
16 what you referred to earlier as escrow contracts?

17 A Yes, sir.

18 Q And how -- can you just describe for our
19 record here how that would work from a business point
20 of view.

21 A Very briefly -- and then you can ask me any
22 specifics -- somebody would own some property and he

1 would want to sell it to somebody that was usually
2 out of state. And they would pay a down payment and
3 then they would make monthly payments, or they would
4 pay at some certain time, at some occurrence that was
5 written into a contract.

6 At the time that the total property was
7 paid off, they would get the deed and clear
8 marketable title, and the escrow contract would be
9 marked paid.

10 Q And during the time that the payments were
11 being made on that parcel, would the bank continue to
12 hold what I would refer to as a first mortgage
13 interest in the property?

14 A Yes, sir.

15 Q And the seller would retain title to the
16 land?

17 A Yes, sir.

18 Q Subject to the first mortgage that the bank
19 held?

20 A Yes, sir.

21 Q And do you recall, in the specific instance
22 of this sale to the Clintons and the McDougals, did

1 the bank in Flippin review any schedules or proposals
2 for how the property would be subdivided and resold?

3 A No, sir, I was not there -- I believe to
4 clarify for the record, I was not there very much
5 longer after the loan had closed. And any of the
6 agreements and paperwork would have been with
7 subsequent presidents, or subsequent boards of
8 directors.

9 Q I'm sorry, I wasn't clear in my question
10 and let me try to ask it a different way because
11 that's not what I'm getting at.

12 What I'm getting at is, at the time that
13 the bank of Flippin made the initial first mortgage
14 loan to the Clintons and the McDougals, did the
15 buyers -- that is, the Clintons or the McDougals --
16 furnish the bank with any proposal of how they
17 intended to subdivide the property, what size lots
18 they would sell for what prices?

19 A I don't remember any.

20 Q If you were here -- this is the difficulty
21 of doing a telephone deposition. I have a document
22 that I would like to show you. I just want to

1 describe it briefly and see if you have any
2 recollection at all of this. It's a document that's
3 numbered in the sequence that has been produced to
4 this Committee, DKRT 900358, which doesn't mean
5 anything to you, I realize; it's just for our
6 records.

7 But it's headed "Whitewater Estates," and
8 it has one column that says tract number, and it
9 shows 44 tracts; and a second column that has amount
10 of acreage, and it appears, just looking at them,
11 that each tract ranges from about 5 to 10 acres with
12 a couple of tracts larger than that; and then a third
13 column that has prices for each one of those tracts,
14 and the total price -- there's a total on that
15 column, it shows \$458,900.

16 I realize this is difficult because I can't
17 show you the document, but do you have any idea what
18 that might represent?

19 A I don't remember anything like that. If I
20 have signed it or if my initials are on something
21 like that, I just don't remember it.

22 MR. GICALE: Just for the record, there's

1 no indication -- no representation that your initials
2 are on this.

3 BY MR. COLE:

4 Q No, all I'm getting at here is very simple,
5 Mr. Patterson. I look at this document and it
6 shows -- it's headed "Whitewater Estates." It shows
7 44 tracts, it shows a list of prices, and then --
8 that total up to \$458,000.

9 And I look at it, and my question is
10 whether that indicates what the parties expected to
11 sell this property for. And I'm just asking if you
12 have any recollection that, at the time you made this
13 loan of \$180,000, there was any expectation that the
14 property would be sold for around \$458,000.

15 A No, I never heard the word "Whitewater"
16 until four years ago, ever. I remember that, I
17 believe specifically, that I had never heard the word
18 "Whitewater Development Corporation," or any other
19 name that would give reference to that piece of
20 property.

21 Q Well, let me ask you one final question,
22 then. Do you recall whether at the time you -- I'm

1 sorry, the bank in Flippin made the loan to the
2 Clintons and the McDougals, the bank expected to be
3 repaid out of the proceeds of sales, of subsequent
4 resales of the property?

5 A Yes, sir; that is correct, sir.

6 Q So the bank was looking primarily to the
7 funds that would be obtained by the Clintons and the
8 McDougals when they resold the property as a means of
9 repaying the loan; is that correct?

10 A That was the primary repayment program,
11 yes, sir.

12 Q And secondarily, did you look at the
13 creditworthiness of the borrowers, being the Clintons
14 and the McDougals?

15 A You know, he asked me a lot about that.
16 And I'm sure that they did. And you have to know
17 that people are creditworthy, but I don't remember
18 specifically.

19 MR. COLE: I know your counsel has another
20 engagement and I want to give him plenty of time on
21 that. I don't have any further questions at this
22 time.

1 MR. GICALE: Just one clarifying question.

2 EXAMINATION

3 BY MR. GICALE:

4 Q When you indicated that the bank expected
5 to be paid in the form of subsequent sales of the
6 property, was that sales by way of land contracts, or
7 sales by way of warranty deeds, or was that not -- or
8 wasn't that specified?

9 A I don't ever remember that being discussed,
10 but I'm not saying it wasn't. I just don't remember
11 it at all.

12 Q Obviously, sales by virtue of land
13 contracts would not yield moneys as soon as sales by
14 virtue of warranty deeds; correct?

15 A That's correct, but they actually yield
16 more profit.

17 Q No, I understand. But do you recall any
18 discussion about how the loan would be paid out in
19 view of whether it would be sold by land contract or
20 warranty deed?

21 A I don't recall.

22 MR. GICALE: I have nothing further.

EXAMINATION

BY MR. COLE:

Q One just very general question, Mr. Patterson, by way of background. Turning the clock back to 1978, at the time this loan was made, the summer of 1978, in the few years leading up to that date, let's say the early '70s to 1978, what had been the trend in the prices of land in that part of the state, in Marion County, Arkansas?

Had prices been going up, down, staying stable, or do you recall?

A You understand that I've been gone from that area since 1979.

Q I understand. I'm only asking what had been happening in the few years leading up to 1978. I'm not asking you what happened after you left.

A Okay. I didn't hear you. Prices before '78, like from 1972, when I moved to Marion County, land was selling practically -- very, very cheap, \$50, \$100 an acre. The other banks were not doing well because they remembered land at \$10 an acre for taxes. And from '72 to '77, land went up double in

98

value, every year or two in a lot of cases.

Now, that's what you were asking, my recollection?

Q That's exactly what I'm getting at.

A Yes, sir. You know, land would go -- sell for \$100 an acre and people would laugh at them, and sell for \$300 and people would laugh at them. But I couldn't give you any specifics, you know.

Q I'm not asking for specifics. I'm just trying to get a sense of what the trend was in the area at the time.

A Well, the trend was well enough that we purchased all that property down there, and you know, we came out real, real well, so it was still going up in '77-78. Now, when interest went real high and the end of the world came, you're right.

Q But that happened after '78?

A Yes, sir. Before '78 prices had been escalating or been increasing far more than the interest rate.

Q And during that same period of time were developers, local developers, buying the property and

1 then selling it to people from outside the area for
2 substantial profits?

3 A Yes, sir.

4 Q And you referred earlier, quite early on in
5 your deposition, to Mr. McDougal's track record in
6 development. Was that a track record he had
7 established during the time period that you just
8 described?

9 A Yes, sir. You're talking like before '78,
10 back in the '60s and '70s?

11 Q Yes. And primarily in the '70s up to '78.

12 A Okay. Yes, sir.

13 Q And you knew and the other members of the
14 board of directors at your bank obviously knew that
15 at the time you made this loan to the Clintons and
16 the McDougals, did you not?

17 A That's my recollection; yes, sir, I did.

18 MR. COLE: I don't have anything further.
19 That's very helpful though, Mr. Patterson. Thank
20 you.

21 EXAMINATION

22 BY MR. GICALE:

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1 Q Mr. Patterson, you knew that but you did
2 not participate in making the decision on the loan;
3 right?

4 A Well, you know, you make this -- you can
5 make this sound any particular way you want to.

6 I don't know how the minutes of the
7 board -- there was a lot of discussion in our board
8 minutes, and I don't remember the board minutes, and
9 just because they wouldn't say or would say something
10 wouldn't mean that we discussed McDougal working for
11 Fulbright and Glen Johnson, who has now been dead for
12 many years but was the old appointee by Fulbright.
13 And you know, I remember Glen knowing about -- but
14 see, he's dead so I can't get him.

15 I remember that we knew and that I knew,
16 I'll testify that I knew that McDougal had developed
17 other properties.

18 MR. COLE: In my questioning -- this is
19 Mr. Cole again, Mr. Patterson -- I'm not really
20 focusing on what the bank board minutes reflect or
21 specifically what the bank directors thought when
22 they approved this loan. I'm just trying to get an

1 understanding of what the general business trend had
2 been and whether people had been making money on
3 deals like this.

4 THE WITNESS: This was just the most
5 ultimate, normal deal in the world. I am amazed that
6 we didn't haggle a price down, and I'm amazed that we
7 didn't give interest deductions off of it, but our
8 bank just didn't do that. And I believe, if you will
9 check, you will find that we didn't.

10 But it was a very good deal for everybody
11 concerned, as I thought, except, as I found out over
12 the years, it didn't turn out to be profitable for
13 McDougal or the Clintons, supposedly. I don't know.
14 That's out of my field too.

15 EXAMINATION

16 BY MR. COLE:

17 Q Do you have any understanding of why it
18 didn't turn out to be profitable for the Clintons and
19 the McDougals? You mentioned earlier, interest rates
20 changed at some point.

21 A I really don't. I left in '79.

22 MR. COLE: I understand. Well, thank you

1 very much.

2 MR. GICALE: I have nothing further. Thank
3 you. Off the record.


4 (Whereupon, at 7:10 p.m., the deposition
5 was concluded.)

6
7 -----
8 JAMES N. PATTERSON
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, CARMEN BUNCH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires MARCH 14, 1998

**DEPOSITION OF JOHN M. QUINN
IN RE: S. RES. 120**

THURSDAY, FEBRUARY 22, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of JOHN M. QUINN, called for examination pursuant to notice of deposition, at 10:28 a.m. in Room 640-A of the Hart Senate Office Building, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

DOUGLAS R. NAPPI, Esq.

Majority Counsel

JAMES S. PORTNOY, Esq.

Minority Associate Special Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

PETER BLEAKLEY, Esq.

Arnold & Porter

555 Twelfth Street, NW

Washington, DC

On behalf of the Deponent.

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P R O C E E D I N G S

Whereupon,

JOHN M. QUINN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

E X A M I N A T I O N

BY MR. NAPPI:

Q Please state your full name for the record.

A My name is John M. Quinn, Q-U-I-N-N.

Q Are you represented by counsel today?

A I am, Mr. Peter Bleakley, B-L-E-A-K-L-E-Y.

Q You have been deposed by the committee before; is that correct?

A I have.

MR. PORTNOY: Would counsel object to dispensing with the preliminaries regarding the conduct of the deposition, or would you prefer to do it again?

MR. BLEAKLEY: No, you don't need to do it again.

MR. NAPPI: Okay, great.

4

BY MR. NAPPI:

Q And where are you presently employed?

A At the White House.

Q And you are counsel to the President?

A That's correct.

Q How long have you held that position?

A Since approximately November 1st, 1995.

Q You say approximately. Did you assume the role of White House counsel earlier or --

A Yes, I chose that word, because I transitioned in over a two-week period, and so there was a two-week period of time there where I was transitioning in as Mr. McVin was transitioning out.

Q And prior to that time, what position did you hold?

A Immediately prior to that, I was Chief of Staff to the Vice President, a job I held since approximately early in July of 1993. Prior to that time, I was Deputy Chief of Staff and counsel to the Vice President, a job I held since Inauguration Day

1 1993.

2 Q Were you employed by the Clinton for
3 President Campaign?

4 A No, I was not.

5 Q Were you involved in a voluntary basis?

6 A I was -- well, let me be clear. I was
7 involved in the Clinton/Gore Campaign. I was not
8 involved until after the convention.

9 Q After Mr. Gore became the Vice Presidential
10 candidate?

11 A That's correct.

12 Q And in what capacity did you render
13 services?

14 A I assisted the Vice President on a
15 occasional basis primarily in connection with his
16 debate during the general election campaign.

17 Q Preparing him for his debate?

18 A Right.

19 Q Any other capacities that you served the
20 Clinton/Gore Campaign?

21 A No, I mean I was generally a supporter of
22 the Vice President, and I had been friends for quite

6

1 some time and I was a general supporter. I had no
2 specific duties in connection with the campaign.

3 Q Okay. During the campaign, were you
4 involved in any capacity in response to press
5 inquiries regarding Whitewater Development
6 Corporation or Madison Guaranty?

7 A No, no, I was not.

8 Q Okay. Did you speak to anyone other than
9 counsel prior to deposition?

10 A Individuals in my office.

11 Q Did you discuss the substance of what your
12 testimony would be today?

13 A No. I made inquiry about a number of
14 matters that I needed -- felt I needed to in order to
15 be able to give testimony today.

16 Q What matters did you make inquiry
17 to -- into, excuse me?

18 MR. PORTNOY: Can we go off the record for
19 a second?

20 (Discussion off the record.)

21 THE WITNESS: I made inquiry as to the
22 content of the entry and exist log into the residence

1 was the principal example I can think of in order to
2 refresh my recollection about whether or not I had
3 made entry into the residence during the period of
4 time about which you're interested.

5 BY MR. NAPPI:

6 Q So you reviewed the entry and exit records
7 that the White House produced to the committee?

8 A No, I did not review the records myself. I
9 asked someone on my staff if I had entered as
10 indicated by the records.

11 Q Okay. And who was that person?

12 A I asked Miriam Nemitz who is on my staff.
13 I also had conversation with Mr. Fine about
14 understandings that our office has had with you about
15 the scope of these depositions.

16 Q I guess just for the record, I should state
17 that the committee has not agreed to any -- to any
18 parameters on the scope.

19 There was a meeting several weeks ago
20 between the White House, members of Williams &
21 Connolly and the majority and minority staff
22 regarding the parameters that the White House and

1 Williams & Connolly would feel comfortable testifying
2 with respect to. But the committee, at least the
3 majority staff, has not agreed to any such
4 limitation, but why don't we move on?

5 MR. PORTNOY: Just to make the record
6 complete, I should point out, with one notable
7 exception, the committee also heretofore has
8 recognized and acknowledged the claims of privilege.

9 MR. NAPPI: Fair enough, yeah.

10 BY MR. NAPPI:

11 Q Mr. Quinn, I'd like to show you a document
12 that is Bates stamp DKS028928 through 029043. It is
13 a copy of a computer printout containing computations
14 with certain numbers.

15 Do you recognize this document?

16 A No; I think I can determine what it is, but
17 this is the first time I've seen it.

18 Q Okay. What would your guess be as to what
19 it is?

20 A It appears to be the Rose law firm billing
21 history for the client Madison Guaranty Savings and
22 Loan.

1 Q Okay.

2 MR. PORTNOY: Actually, the record should
3 reflect Mr. Quinn has been handed a stack of
4 documents about an inch thick, he's only been
5 referring to the document on the first page; he's
6 only reviewed the first page.

7 BY MR. NAPPI:

8 Q Would you like to take a minute to review
9 the document?

10 A I don't think so.

11 Q Okay. When you say you have never seen
12 this, this copy?

13 A I've never seen any copy of this record.

14 Q Any prior generation reflecting these
15 records?

16 A Correct.

17 MR. NAPPI: Let's go off the record for a
18 moment.

19 (Discussion off the record.)

20 BY MR. NAPPI:

21 Q Did there come a time in January of 1996
22 where you became aware that these records had been

10

1 discovered in the office of Carolyn Huber?

2 A Yes, there did.

3 Q Do you recall the date on which you became
4 aware of this?

5 A No, I don't recall the date, but I believe
6 it was early in the morning on the day after they
7 were discovered.

8 Q What's your basis for that belief that it
9 was the day after discovery?

10 A On the evening before I was told, I was
11 informed by Ms. Sherburne that she had an important
12 matter about which she wanted to report to me; it
13 later became apparent that it was the discovery of
14 these records.

15 We were unable to get together to have that
16 conversation that night, and so I had the
17 conversation with her the following morning. I took
18 from the tenor of her report to me that the discovery
19 had been made the day before.

20 Q Okay. So the -- just to clarify the
21 record, Ms. Sherburne contacted you on the evening
22 she discovered -- or these documents were discovered?

1 A On the day before I learned specifically
2 that they had been discovered, she said she had
3 something important to tell me about. The next
4 morning she told me they had discovered the records,
5 and I believe she told me specifically, though, I
6 don't have a specific memory of that, but my
7 impression at the time was that she told me that the
8 discovery had been the night before or the day
9 before.

10 Q So you learned of the discovery the day
11 that these records were produced to the independent
12 counsel and this committee?

13 A That's correct.

14 Q Okay. Do you recall the time of day that
15 Ms. Sherburne contacted you?

16 A On the previous day?

17 Q The previous day regarding the important
18 matter.

19 A I don't recall the time. My memory is that
20 it was in the evening hours, and I don't recall why
21 we were unable to get together, but I know that I had
22 to leave the premises and go somewhere.

1 We had a very brief telephone conversation
2 in which she said she had something important to tell
3 me about, and we just didn't hook up that night.

4 Q Okay. So you were still in your office at
5 the White House when she called you?

6 A Correct.

7 Q And --

8 A That's correct. And it was in the evening
9 hours, but I don't recall specifically what time.

10 Q And she didn't give you any of the
11 specifics, she just said --

12 A She did not.

13 Q Okay. Did you make inquiry as to what the
14 important matter was?

15 A No, because at the time she mentioned that
16 she had something important to tell me about, I had
17 people in my office.

18 Q Do you recall who those people were?

19 A I do not. I just recall very clearly that
20 I was not at liberty to have either a confidential or
21 an extended discussion.

22 Q Did she indicate -- "she" being

1 Ms. Sherburne, did Ms. Sherburne indicate where she
2 was calling from?

3 A I don't believe so; if she did, I don't
4 recall it.

5 Q You didn't -- did you hear a copying
6 machine operating over the telephone?

7 A No.

8 Q Did she indicate who she was with?

9 A She did not.

10 Q How long was this telephone conversation?

11 A It was very brief.

12 Q Thirty seconds?

13 A I can't recall if in this conversation we
14 talked about any other subjects; I don't believe we
15 did. I believe it was not much longer than what I've
16 described that she informed me that there was another
17 matter she needed to talk to me about -- actually, as
18 I reconstruct it, we had talked about something else,
19 and she said there's another matter -- there's
20 something else very important I need to tell you
21 about, and we agreed we would talk later, but we
22 didn't until the next morning.

1 Q Did the other matter relate to Whitewater
2 or Madison Guaranty?

3 A I don't believe so. I just don't have a
4 clear memory of that whole conversation. Look, at
5 the time, you know, the conversation itself seemed
6 rather routine, it's only in retrospect that I
7 realized that was the first indication that we were
8 going to have a conversation about this.

9 Q Okay. Who in the White House Counsel's
10 Office has primary responsibility for handling
11 matters relating to the various investigations both
12 by Congress and the various investigative agencies
13 relating to the matters generally known as
14 Whitewater/Madison?

15 A I would answer you as follows:
16 Ms. Sherburne manages the activities of our office on
17 a day-to-day basis on those matters. As with
18 everyone else in the counsel's office, she is
19 ultimately accountable to me and reports to me; but
20 she does manage these cases, if you will, on a
21 day-to-day basis and the staff of people who work on
22 them.

1 Q Does she report to you on Whitewater
2 matters?

3 A Not necessarily. The -- it is my
4 expectation that she will consult me on matters of
5 great significance and about which I may be held
6 accountable, and that's the understanding we have.

7 She reports as well as I think you know to
8 Mr. Ickes with respect to the nonlegal aspects of
9 these matters who has responsibility for oversight.

10 Q Okay. What do you mean by "nonlegal
11 aspects"?

12 A Well, I would say to you that there are
13 many of us who believe that these are principally
14 political matters motivated by politics undertaken
15 with political ends in mind and which are as much
16 about public relations and politics as about anything
17 having to do with the law; that being the case, there
18 is a political and public relations dimension to the
19 White House's handling of these matters.

20 Q Okay. So on any specific matter,
21 Ms. Sherburne would report -- strike that.

22 Do you know what Ms. Sherburne's reporting

16

1 relationship is with Mr. Ickes? Does she just report
2 to him on matters of great significance?

3 A You'd have to ask them about their
4 relationship.

5 Q Okay. So is it fair to say that
6 Ms. Sherburne reports to you on legal issues of great
7 significance regarding Whitewater?

8 A It's fair to say that Ms. Sherburne should
9 report to me on all legal matters of great
10 significance related to Whitewater; it's certainly my
11 expectation and I believe her expectation that she
12 does and will do so.

13 Q What would you characterize as you used the
14 term great significance?

15 A Look, there are -- I am not prepared to
16 testify to the operational aspects of our office in
17 terms of what matters are important to us as a matter
18 of legal judgment; what matters are not important to
19 us; what matters have great significance or little
20 significance. I don't think it's fair to probe into
21 that frankly.

22 Q I'm just trying to come to an understanding

1 of the reporting relationship between you and
2 Ms. Sherburne. I think you can help facilitate
3 the --

4 A Well, by way of example, I would expect to
5 be informed about the discovery of these records and
6 consulted about if there were any question about
7 turning them over to the committee and the
8 independent counsel.

9 Ms. Sherburne clearly made every effort to
10 inform me promptly of the discovery of these records,
11 that's the sort of matter of significance about which
12 I would expect to be informed or consulted as the
13 case may be.

14 Q Okay. If you receive -- or if the White
15 House receives a subpoena from the Senate, would you
16 expect to be informed of that?

17 A Lately they've been coming to me, which has
18 mystified me and, I send them down to Ms. Sherburne
19 immediately upon receipt. Prior to that, most
20 document requests have been delivered directly to
21 Ms. Sherburne.

22 Lately there has been a pattern of sending

1 these requests to me and, as I say, I will typically
2 forward them to her. I certainly am kept informed of
3 the fact that the committee may issue a subpoena or
4 write to us about the particulars of a document
5 request.

6 It's hard to say frankly that all of these
7 things are matters of such significance that I should
8 be informed right away, because to be honest with
9 you, the numerosity of these document requests, in
10 fact, the issuance of subpoenas has, in my own
11 opinion, become almost cavalier; it used to be that
12 the issuance of a Congressional subpoena was an
13 unusual event, it's not these days.

14 Q All right. Well, that's not what I'm
15 getting at. My interest is not in opinions regarding
16 subpoenas.

17 What I was getting at is, who would have
18 responsibility for complying --

19 A Ms. Sherburne --

20 Q -- with documents or subpoenas?

21 A Ms. Sherburne would be the one responsible
22 for managing our office's response to those

1 subpoenas. Having said that, I understand that as
2 counsel to the President, as Ms. Sherburne's
3 superior, I'm held accountable in the final analysis
4 for our compliance.

5 Q Okay. So you might be kept apprised, but
6 she would handle the nuts and bolts of document
7 production?

8 A Absolutely, right.

9 Q Okay. All right. The evening that
10 Ms. Sherburne called you -- strike that.

11 You said the next morning you had a contact
12 with Ms. Sherburne in which she informed you that the
13 billing records had been discovered in Ms. Huber's
14 office?

15 A Yes, now, that's correct. In the interim,
16 the first contact I believe I had that morning was
17 immediately before or after the daily 7:30 senior
18 staff meeting at which point I believe Mr. Ickes
19 mentioned to me that these billing records have been
20 found, and, again, I think that that was the extent
21 of the conversation.

22 As I say, it was -- he mentioned it to me

1 in passing, either before or after the early morning
2 meeting. Immediately after that meeting, I had a
3 more detailed conversation with Ms. Sherburne.

4 Q Okay. And the 7:30 staff meeting, who
5 attends this meeting -- more specifically, who
6 attended it that day?

7 A Oh, I couldn't possibly tell you who was
8 there, who was not. I'd prefer to answer --

9 Q Generally who is there.

10 A -- who generally attends. It's
11 Mr. Panetta's meeting, and it's generally attended by
12 his deputies, Mr. Ickes and Evelyn Lieberman, by
13 secretary Ruben, Lori Tyson, Alice Riflin, it used to
14 be Pat Griffen, now John Hilly, George
15 Stephanopoulos, Don Bare, the communications
16 director, Mike McCury, press secretary. There are
17 two or three others. It's the seniormost staff.

18 Q Okay. Was there any discussion at this
19 meeting --

20 A There was not.

21 Q -- regarding the discovery of the billing
22 records?

1 A There was not.

2 Q Okay. You don't recall whether Mr. Ickes
3 told you afterwards or prior to this meeting?

4 A I do not. I recall it was either as the
5 group was forming up or dispersing, and he sort of
6 pulled me aside and just mentioned to me very briefly
7 that the billing records have been found.

8 Q Who else was involved in this conversation?

9 A No one else.

10 Q Did Mr. Ickes tell you how he had learned
11 how the billing records had been discovered?

12 A He did not.

13 Q Do you recall anything else of the
14 substance of this conversation?

15 A No, I did not.

16 Q He just told you that the billing records
17 have been found?

18 A Right. I have no memory that there was any
19 other part of the conversation, I believe he simply
20 informed me of that fact.

21 Q Okay. Did he specify which billing records
22 had been found?

22

1 A I don't recall how he referred to them. I
2 just don't recall with any specificity how he
3 referred to them.

4 Q So he didn't mention the billing records
5 that had been subject to a subpoena or --

6 A No, no, I don't believe so.

7 Q Why would this have been significant then?
8 I mean I just don't understand if he said we found
9 some Rose law firm billing records, why would that be
10 significant enough to take you aside and mention it
11 to you?

12 A There was an implication in his reporting
13 this to me that these records were of significance.
14 Among other things, we all knew that if these records
15 could be found, they would fully corroborate the
16 First Lady's testimony to the effect that her work on
17 these matters had been relatively minimal, that, of
18 course, turned out to be the case. And as a matter of
19 substance, we were, I think, relieved that these
20 records turned up.

21 Q You say there was an implication of
22 significance. Did Mr. Ickes seem happy? I mean was

1 he like I got great news, we've discovered the
2 missing billing records?

3 A I don't recall the -- I don't know how well
4 you know Mr. Ickes, but he's very much an all
5 business sort of guy. But, look, I don't recall
6 the -- his emotional state at the time. As I say, he
7 reported to me with -- in an earnest fashion that the
8 records had been located or turned up; I don't recall
9 the exact words he used.

10 Q Earnest's fashion, did he seem concerned?

11 A I don't have a memory of his exhibiting
12 concern.

13 Q Did he have a copy of the billing records
14 with him?

15 A He did not -- well, if he did, he didn't
16 show them to me.

17 Q Okay. Did he apprise you of any of the
18 circumstances surrounding the discovery of these
19 billing records?

20 A He did not. I learned that later from
21 Ms. Sherburne.

22 Q So all you recall of your conversation with

1 Mr. Ickes is that he earnestly related to you that
2 billing records had been discovered?

3 A That's right.

4 Q And he didn't offer any plan of action?

5 A No. Let me -- let me again try to set the
6 scene. This was a snippet of a conversation that
7 took place either moving into or moving out of Leon
8 Panetta's office. It was not an extended
9 discussion.

10 I think it was literally as we were moving
11 either into or out of the room, and he sort of pulled
12 me over and mentioned the fact to me that billing
13 records, that Rose law firm records relating to the
14 time Mrs. Clinton had spent on these matters had been
15 located.

16 It was the sort of conversation that one
17 has with an understanding that there will be more
18 later. It was a very brief, as I say, snippet of
19 conversation.

20 Q He didn't tell you talk to Jane Sherburne
21 or --

22 A Well, he wouldn't need to. I mean I would

1 know that Jane could give me more detail that
2 her -- as you suggested or inquired about earlier,
3 Jane works on these matters full-time. Harold does
4 not; I do not, and when something like this happens,
5 one would expect Jane Sherburne to know about it and
6 to be able to give one whatever details are available
7 about it.

8 Q So this is the first -- this discussion
9 with Mr. Ickes was the first time you learned of the
10 actual discovery --

11 A Right.

12 Q -- of these billing records?

13 A That's right.

14 Q Were you aware at that time that these
15 billing records had been missing or had been sought
16 by investigative agencies?

17 MR. PORTNOY: Could you hold on for a
18 minute? Was your question, was he aware that Rose
19 billing records generally were sought, or is your
20 question whether he was aware of the existence of
21 these specific records? I'm not sure of the
22 implication of your question.

26

1 BY MR. NAPPI:

2 Q My question was, were you aware that Rose
3 billing records were sought by various investigative
4 agencies?

5 A I'm going to answer you this way: I was
6 aware that we wished we could -- we wished the
7 records were available because Mrs. Clinton's
8 statement to the effect that her work on these
9 matters had been relatively minimal could best be
10 corroborated by the existence of the records.

11 Q So you knew there were some missing
12 records?

13 A Yes, I knew that --

14 Q And you knew it at the time you had this
15 conversation with Mr. Ickes?

16 A Now, what I think I -- what I did not know
17 was whether a particular document request or subpoena
18 covered these particular records. I knew
19 that -- that the billing records were important to
20 corroborate Mrs. Clinton's statements were
21 unavailable.

22 Q Okay. So the meeting ends, and you have

1 your conversation with Mr. Ickes, or you had your
2 conversation with Mr. Ickes and then you had the
3 meeting.

4 A Right.

5 Q How long afterwards did you talk with Jane
6 Sherburne?

7 A My memory is that I had a conversation with
8 her very soon after that 7:30 meeting.

9 Q A half hour later?

10 A Within 15 minutes or so.

11 Q What time did the 7:30 meeting end?

12 A It usually ends in the vicinity of 8:15 or
13 8:30.

14 Q So somewhere between 8:30 and 9:00, to the
15 best of your recollection, you had a conversation
16 with Ms. Sherburne?

17 A That's correct.

18 Q Did you have any other conversations
19 regarding the discovery of the Rose billing records
20 between the time you talked with Mr. Ickes and the
21 time you sat down with Jane Sherburne?

22 A No.

1 Q Okay. I've probably assumed something.
2 Did you actually sit down with
3 Ms. Sherburne and have a conversation, or was this a
4 telephone conversation?

5 A It was a face-to-face conversation.

6 Q Okay. And could you describe the
7 circumstances?

8 A My memory is that, as I say, shortly after
9 that 7:30 meeting, I had a face-to-face conversation
10 with Jane; it may have been -- it may have been that
11 she was in the vicinity of the Chief of Staff's
12 office when that meeting broke up, and that we
13 stepped inside Mr. Ickes' office which is adjacent to
14 Mr. Panetta's office and she gave me more details
15 about this.

16 I don't believe this conversation took
17 place in my office or in hers, though my best
18 recollection is that she may have given me more
19 details about this very shortly after the senior
20 staff meeting broke up, and that in all likelihood
21 this conversation between her and me took place in
22 Mr. Ickes's office, though, I do not have any memory

1 that Ickes was present.

2 Q Was she waiting for you at the end of the
3 meeting?

4 A I don't know that. I don't know that.

5 Q Was she -- when you left the meeting, was
6 Jane Sherburne outside of the room where the meeting
7 occurred?

8 A Again, my memory of this is that she was
9 so -- she was in the vicinity there and that she and
10 I stepped into Ickes' office to have a conversation,
11 at which time she gave me more details than I got in
12 the snippet of conversation with Ickes.

13 Whether she went there to find me, I
14 couldn't answer that, she could tell you that. But
15 my memory is that she was in that vicinity and that
16 on that -- that was the occasion when she gave me
17 details about the discovery of the records.

18 Q Okay. So the 7:30 senior staff meeting
19 takes place in Mr. Panetta's office?

20 A Correct.

21 Q And is there an office suite?

22 A Yes.

30

1 Q I'm just having trouble --

2 A Right.

3 Q Could I actually just ask you to sketch it
4 out?

5 A Sure.

6 MR. PORTNOY: Why don't we go off the
7 record a minute to give Mr. Quick an opportunity to
8 do this?

9 (Discussion off the record.)

10 THE WITNESS: This is a -- this is offices
11 in the southwest corner of the west wing. The corner
12 office here (indicating) is occupied by Mr. Panetta.
13 There's a reception room here (indicating) that one
14 enters from this hallway into the reception room
15 (indicating), and then on the other side of the
16 reception room is Harold Ickes' office.

17 Now, my memory is that when I left the
18 meeting, Jane was either out here (indicating) or
19 right in here (indicating) inside the doorway to this
20 reception room (indicating).

21 BY MR. NAPPI:

22 Q So she was either in the hallway that leads

1 into the reception room or she was in the reception
2 room?

3 A Or she was just inside the reception room,
4 and that we just stepped into Ickes' office and had a
5 five-minute conversation about the discovery of the
6 records.

7 Q Okay. All right. Was Ms. Sherburne alone?

8 A Yes, to the best of my memory, she was.

9 Q Was she -- strike that.

10 Did she seem to be doing anything in
11 particular or was she just standing around?

12 A She didn't seem to be doing anything, she
13 seemed to be waiting.

14 Q Okay. And did she initiate the
15 conversation with you?

16 A Yes, I believe so.

17 Q Do you recall what she said?

18 A I do not. I don't recall specifically what
19 she said. I do -- my memory is, again, that we
20 stepped inside Mr. Ickes' office at which point she
21 gave me a fulsome report of the discovery of the
22 records, again, I believe the evening before or some

1 time the day before.

2 Q Okay. And Mr. Ickes was not in the office
3 with you?

4 A I don't recall that he was. I don't
5 believe he was. There's a larger staff meeting that
6 takes place after the 7:30 meeting, he attends that.

7 Q Okay. Was anyone else in the room, in
8 Mr. Ickes' office?

9 A I don't have any memory of anyone else
10 being there.

11 Q Okay. Who suggested that you step into
12 Mr. Ickes' office?

13 A I don't recall that.

14 Q You say it was about a five-minute
15 conversation?

16 A I believe so, yes.

17 Q Do you recall the substance of the
18 conversation?

19 A Only in general terms. You know, as I say,
20 my memory of it is that she gave me a more complete
21 report of what Ickes had told me a little bit earlier
22 that day, that the records had been found. And I

1 believe Jane told me the circumstances about
2 Ms. Huber having discovered them.

3 Q Did she tell you who else knew about the
4 discovery of the records?

5 A I don't recall having had a conversation
6 specifically about who knew or who did not know, at
7 least at that time, I don't recall that being part of
8 the conversation.

9 Q Did she mention that David Kendall was
10 there?

11 A I don't know.

12 Q Did she mention that they had made copies
13 of the records?

14 A I do not believe so, but I can't be certain
15 of that.

16 Q Did she relate to you anything Ms. Huber
17 had said about the discovery of the records?

18 A I can't recall this conversation in
19 sufficient detail. You have to remember that from
20 that point over the next day or two, there was a sort
21 of flood of information about the discovery of these
22 records, and I know now a whole lot more than I knew

1 then.

2 I can't break up the -- that day and the
3 following day and tell you what I learned in which
4 hours and from which people. I can't be certain
5 whether let alone to what extent Ms. Sherburne
6 repeated Ms. Huber's accounting of the discovery of
7 the records. And I made no notes of the
8 conversation.

9 Q When did President Clinton learn of the
10 discovery of the notes?

11 A I don't know.

12 Q Did you apprise him of the discovery of the
13 notes?

14 A I did not.

15 Q Did you ask Mr. Ickes if he had apprised
16 the President?

17 A I came to learn that the President had been
18 informed. I believe Ms. Sherburne told me that the
19 President had been informed, and so there was no need
20 for me to apprise him of that.

21 Q Did Ms. Sherburne inform you of this during
22 this first meeting in Mr. Ickes' office?

1 A I don't believe so. I believe she told me
2 later.

3 Q At the time you learned of the discovery,
4 let's focus on that day, can you run me through a
5 chronology of the various conversations and meetings
6 you had regarding the discovery of the records?

7 A No, I can't possibly. This is one piece of
8 what was no doubt an otherwise extremely busy day, I
9 say no doubt, because they all are. And on most
10 days, I will have a dozen meetings and deal with 10
11 to 15 different issues. On some days, Whitewater
12 matters may be one of those issues or two of those
13 issues.

14 Q Okay, fair enough. When was the First Lady
15 apprised of the discovery of those billing records?

16 A I don't know that either, because I did not
17 apprise her of it.

18 Q Do you know whether -- do you know who did
19 apprise her of it?

20 A No, I don't. I don't even know now. I was
21 later informed about the President having been
22 informed, but I don't think I've ever been apprised

1 as to who might have told the First Lady about the
2 discovery or when.

3 Q During that first meeting, did
4 Ms. Sherburne tell you that it had been decided that
5 these records would be produced to the independent
6 counsel?

7 A Again, I don't have a specific recollection
8 of our having discussed that; but to the extent that
9 these would have been called for or pertinent, it
10 wouldn't have been an issue that we needed to discuss
11 or debate.

12 If they were called for or necessary, I
13 think Jane would know that my feeling would be that
14 they should be turned over and turned over promptly.

15 Q Yeah, I'm not getting -- my question wasn't
16 necessarily was there a discussion of whether -- I'm
17 just trying to get a sense of what happened during
18 this five-minute conversation.

19 A Yes, and I don't recall having a discussion
20 about the mechanics of turning them over to Judge
21 Star.

22 Q Okay. Do you recall reviewing any press

1 statements regarding the discovery of the billing
2 records that day?

3 A I do not; it's not generally my function to
4 review press statements.

5 MR. PORTNOY: Do I understand your question
6 to be whether Mr. Quinn reviewed any statements made
7 or to be made by the White House as opposed to any
8 accounts in the press?

9 THE WITNESS: That was how I understood
10 it.

11 MR. PORTNOY: That's how you answered it, I
12 just wanted to be clear if that was the question.

13 MR. NAPPI: I was getting the press
14 statements, I was not referring to whether Mr. Quinn
15 read the city paper, I would assume he does.

16 MR. PORTNOY: Off the record.

17 (Discussion off the record.)

18 BY MR. NAPPI:

19 Q David Kendall issued a press statement that
20 day, did you review that statement prior to its
21 release?

22 A To be honest with you, I don't even recall

1 the statement, so I don't have a memory of having
2 reviewed in advance of it going out; that's not to
3 say that David might not have shared it with me, I
4 just don't have a memory of his doing so.

5 Q All right. At this time I'd like to show
6 you four documents that are Bates stamp S020532
7 consecutively through to S020542, three of these
8 records are titled draft statement, David Kendall,
9 January 5th, 1996, one is just titled statement of
10 David Kendall.

11 I'd just ask you to review these and see if
12 that refreshes your recollection.

13 (Witness reviews the document.)

14 THE WITNESS: Well, frankly, looking at
15 them persuades me that I did not review them in
16 advance of their issuance. Again, that's not to say
17 that Mr. Kendall didn't send them to my office, but I
18 do not believe that I reviewed this. And I do not
19 believe that I provided any comment on them.

20 BY MR. NAPPI:

21 Q Okay. So the best of your belief is you
22 had no involvement in the preparation of these

1 statements?

2 A That's correct.

3 Q Okay. Do you recall ever having a
4 discussion with President Clinton regarding the
5 discovery of the billing records?

6 A I am not going to testify about
7 conversations I may have had with the President.

8 Q On what basis?

9 A I'm his counsel.

10 Q Your White House counsel, you're not his
11 private counsel.

12 A That's right.

13 MR. BLEAKLEY: You have your answer, let's
14 not have an argument on the record about this. He's
15 told you he's not going to testify on this.

16 MR. NAPPI: You're going to assert a
17 privilege --

18 MR. BLEAKLEY: He's done it.

19 MR. NAPPI: Fair enough.

20 MR. BLEAKLEY: Let's move on.

21 BY MR. NAPPI:

22 Q Did you ever have any conversations with

1 the First Lady regarding the discovery of the billing
2 records?

3 A I'm not going to testify about
4 conversations I may have had with the First Lady.

5 Q Could you just state the privilege you're
6 asserting?

7 A Well --

8 MR. BLEAKLEY: Let me make a statement
9 here. First, it's beyond the scope of this
10 deposition; secondly, he asserts the privilege on
11 executive privilege grounds and, in any event, that
12 is not the scope of this deposition.

13 If you want to take this up separately, you
14 can take it up, but we're not going to answer any
15 questions about conversations that Mr. Quinn had with
16 the President or the First Lady on this subject.

17 MR. NAPPI: Regarding the discovery of the
18 billing records?

19 MR. BLEAKLEY: Regarding the discovery of
20 the billing records. The billing records have been
21 produced. Mr. Quinn is here as a fact witness to
22 testify concerning his knowledge of the Rose law firm

1 billing records, and he'll answer any questions you
2 have about his personal knowledge of the Rose law
3 firm billing records.

4 He will not answer questions concerning the
5 conversations that he may or may not have had with
6 the President or the First Lady.

7 MR. NAPPI: Okay. Let me just state for
8 the record that the committee is investigating the
9 facts and circumstances surrounding the discovery of
10 the billing records.

11 MR. BLEAKLEY: And Mr. Quinn will testify
12 as to any personal knowledge he has regarding the
13 discovery of the Rose law firm billing records.

14 MR. NAPPI: The questions I was going into
15 did not relate to the substance of the billing
16 records. I was not going to go into any legal advice
17 that Mr. Quinn may have provided regarding the rights
18 or privileges of the Office of President. I was
19 simply getting into conversations regarding the
20 discovery of the billing records.

21 BY MR. NAPPI:

22 Q Just to clarify for the record, you will

1 not testify as to those?

2 A That's correct.

3 Q Okay.

4 A For the record, you're well aware that we
5 have come to an accommodation with respect to making
6 available to the committee certain information that
7 would otherwise be protected by executive privilege
8 up to a certain point in time.

9 There have been notorious discussions among
10 us about the waiver of attorney-client privilege,
11 those discussions yielded an understanding about, for
12 example, the so-called Kennedy notes.

13 We are doing our utmost to provide the
14 facts and information that the committee needs to
15 complete its task.

16 Q And we're just -- I'm just trying to
17 establish a clear --

18 A And having said that --

19 Q -- record as to --

20 A -- I think the probing into conversations
21 that counsel to the President may have had with the
22 President is wholly inappropriate.

1 Q Okay. I was just trying to establish a
2 clear record as to the basis you were asserting for
3 not answering the question.

4 A Okay.

5 Q I didn't want to create the implication
6 that I had --

7 A I understand.

8 Q -- waived --

9 MR. PORTNOY: I would state again for the
10 record that the committee has actually recognized
11 assertions of privilege heretofore and even majority
12 in seeking inquiry into matters that the minority
13 viewed as privilege took the position that those
14 matters were not privileged.

15 So even in the extreme, the majority has
16 not inquired into privileged matters, and it would be
17 just in its own view.

18 MR. NAPPI: I did not direct the witness to
19 answer the question. I just asked him to explain the
20 basis for his refusal to answer.

21 THE WITNESS: Okay.

22 BY MR. NAPPI:

1 Q Okay. Let's focus again on the discovery
2 of the billing records and, in particular, the day
3 that you learned that they had, in fact, been
4 discovered. You've testified as to your recollection
5 of conversations with Mr. Ickes and Jane Sherburne.

6 Do you recall any other person on the White
7 House staff you had a conversation with regarding the
8 discovery of these records?

9 A I'm certain that I would have had
10 conversations within my own office.

11 Q Within the White House Counsel's Office?

12 A That's right.

13 Q Did Mr. Fine apprise you of the discovery
14 of the billing records?

15 A Well, I was apprised as I testified earlier
16 by --

17 Q I'm sorry, I don't mean apprised. But did
18 he inform you that he knew of the discovery of the
19 billing records?

20 A He may have, I don't recall.

21 Q Okay. Do you recall any conversations
22 regarding the discovery of the billing records with

1 anyone in the White House outside of the White House
2 Counsel's Office?

3 A I don't recall any specific conversations;
4 having said that, I'm confident that I had such
5 conversations, but I can't give you the particulars,
6 it would be -- it would be extraordinary if I hadn't
7 had conversations, for example, with the Chief of
8 Staff.

9 Q All right, that was my next question. Do
10 you have any specific recollection of discussing this
11 with Mr. Panetta?

12 A I do not, but I almost certainly had at
13 least one conversation with him that would have borne
14 on this.

15 Q Do you recall discussing it with Maggie
16 Williams?

17 A I do not. I do not believe I -- what time
18 frame are we in here? You mean ever?

19 Q Why don't we focus on the day that you
20 learned of the discovery, the day that the documents
21 were actually produced.

22 A Okay. And I'm virtually certain I did not

1 talk with Maggie Williams.

2 Q But you may have had subsequent
3 conversations?

4 A I may have been involved in conversations
5 in which she was involved in which reference was made
6 to this.

7 Q Okay. Did you have any conversations with
8 Mr. McClarty on the day of the discovery?

9 A I don't believe so.

10 Q Do you recall having any conversations with
11 anyone outside of the White House regarding the
12 discovery of the records?

13 A I probably -- I almost certain I had a
14 conversation with Mr. Kendall about this, I don't
15 recall when, and I don't recall the specifics of it.

16 Q Okay. Did you ever have any discussions
17 regarding the discovery of the billing records with
18 Web Hubbell?

19 A No.

20 Q Okay. With any current or former members
21 of the Rose law firm?

22 A No -- well --

1 Q With the --

2 MR. PORTNOY: With the understanding that
3 Mr. Quinn is not going to testify about any
4 conversations he may or may not have had with the
5 First Lady.

6 BY MR. NAPPI:

7 Q Other than former present members of the
8 Rose law firm who we've specifically discussed.

9 A Correct.

10 Q Have you ever had any discussions regarding
11 the discovery of the billing records with Bernie
12 Nussbaum?

13 A No.

14 Q Okay. Patsy Thomason?

15 A No.

16 Q Carolyn Huber?

17 A No.

18 Q Have you ever had any discussions regarding
19 the Rose law firm's representation of Madison with
20 respect to Castle Grande or IDC since the day you
21 were apprised of the discovery of the billing
22 records?

1 MR. BLEAKLEY: Can we have that question
2 read back, please?

3 MR. NAPPI: Good idea.

4 (The reporter read back the portion as
5 requested.)

6 MR. BLEAKLEY: Discussions with whom?

7 BY MR. NAPPI:

8 Q With anyone that you --

9 MR. BLEAKLEY: He's not going to answer
10 that question unless first you ask with whom he had
11 such discussions so that we can ascertain whether or
12 not any such discussions would or would not be
13 covered by a privilege. So let's identify with
14 whom.

15 MR. NAPPI: Okay.

16 BY MR. NAPPI:

17 Q All right. The question is posed, why
18 don't I run through a litany of --

19 MR. BLEAKLEY: Of people

20 BY MR. NAPPI:

21 Q -- of people?

22 MR. PORTNOY: Can we go off the record for

1 a moment?

2 MR. NAPPI: Sure.

3 (Discussion off the record.)

4 BY MR. NAPPI:

5 Q Okay. The question I've posed, counsel
6 asked me to identify particular people that you may
7 have had conversations with.

8 Bernard Nussbaum?

9 A No.

10 Q Mac McClarty?

11 A No.

12 Q Harold Ickes?

13 A I would answer you this way, it is possible
14 that the subject of Rose -- the Rose law firm's
15 representation of Madison with respect to IDC or
16 Castle Grande may have been a part of a discussion of
17 which Ickes and I were a part, that is to say, in a
18 group of people at which, for example, someone might
19 have been reporting on your committee's hearings.
20 Harold and I have never one on one had a discussion
21 of that subject.

22 Q Do you have any specific recollection of a

50

1 discussion of the subject of Castle Grande/IDC with
2 Mr. Ickes, be it in a group context?

3 A I do not. I would simply try to help you
4 by saying that any such discussion would no doubt
5 have been in the context of reports or statements
6 that were -- that had to do with the committee's
7 hearings.

8 Q Okay. What about Maggie Williams, any
9 conversations?

10 A I'm confident that I never had any
11 conversations with her about that subject.

12 Q Okay. Web Hubbell?

13 A The same, never discussed this with him.

14 Q Okay. Susan Thomases?

15 A No, never.

16 Q David Kendall?

17 A I'm confident that this subject has come up
18 in conversations with David Kendall.

19 Q No specific recollections?

20 A No -- I'm sure -- let me just add this. I
21 do have a specific recollection on one or more
22 occasions of listening to Mr. Kendall explaining that

1 there was great confusion on the part of the Senate
2 committee, the majority about that matter, and that
3 these records and the facts demonstrate quite clearly
4 that the First Lady's statements about her work or
5 the minimal nature of her work on these matters was
6 fully corroborated by the records and the facts
7 before the committee.

8 Q Okay. Do you recall any specifics of this
9 conversation or conversations?

10 MR. PORTNOY: Can we go off the record for
11 a second?

12 THE WITNESS: No.

13 (Discussion off the record.)

14 MR. NAPPI: I'm trying to remember where we
15 were.

16 MR. BLEAKLEY: You asked if he had
17 conversations with David Kendall, he said he probably
18 did.

19 BY MR. NAPPI:

20 Q And you testified as to general
21 recollection.

22 A Right.

1 Q Do you recall any of the circumstances
2 regarding these conversations?

3 MR. BLEAKLEY: Mr. Quinn is not going to
4 answer any questions about the substance of the
5 conversations that he had with Mr. Kendall.

6 MR. NAPPI: Okay, well, arguably he already
7 has, but why don't we move on.

8 BY MR. NAPPI:

9 Q Any such conversations with the President?

10 MR. BLEAKLEY: He's not going to answer any
11 questions about conversations he had with the
12 President or the First Lady, if she's next on your
13 list.

14 MR. NAPPI: Okay.

15 BY MR. NAPPI:

16 Q All right. Before we move on, again on the
17 same subject matter, Rose's representation of Castle
18 Grande and IDC.

19 I had asked you to focus on the time period
20 after the discovery or when you had learned of the
21 discovery, could we focus for a minute on any
22 conversations you may or may not have had prior to

1 the discovery of these billing records?

2 A Sure.

3 Q Okay. And, again, with that as a preface,
4 I'll run through a litany of names.

5 A Okay.

6 Q Any discussions with anyone on the White
7 House staff?

8 MR. BLEAKLEY: About what?

9 MR. NAPPI: Castle Grande or IDC.

10 MR. BLEAKLEY: During what period of time?

11 MR. NAPPI: Any period of time from let's
12 say January of '93 through January 4th of '95.

13 THE WITNESS: Exclusive of my office?

14 BY MR. NAPPI:

15 Q Your office being your current office, the
16 White House Counsel's Office?

17 A Right.

18 Q All right, we'll start there. Exclusive of
19 conversations within the White House Counsel's
20 Office.

21 A I don't recall any such conversations.

22 Q Okay. Any conversations with the President

1 or the First Lady?

2 MR. BLEAKLEY: Objection.

3 MR. NAPPI: Okay.

4 MR. PORTNOY: Mr. Nappi, the witness has
5 indicated quite clearly he's not going to answer any
6 conversations regarding any conversations with the
7 President or First Lady, and I ask that we not fill
8 the record with questions regarding these
9 conversations since it's now quite well established
10 that the witness isn't going to respond to them.

11 MR. NAPPI: Okay, I'll note your comment.

12 BY MR. NAPPI:

13 Q Do you recall any conversations with
14 any -- exclusive of the First Lady, any current or
15 former members of the Rose law firm regarding that
16 firm's representation of --

17 A No.

18 Q -- Castle Grande or IDC?

19 A No.

20 Q Do you recall any such conversations with
21 Susan Thomases?

22 A No.

1 MR. NAPPI: Let's go off the record for a
2 moment.

3 (Discussion off the record.)

4 BY MR. NAPPI:

5 Q Okay. Mr. Quinn, I'd like to focus your
6 attention on the time period between -- well, let's
7 say the July/August 1995 time period.

8 And in that context, I'd like to show you a
9 record, I'm just searching for the Bates stamp, it's
10 S020036 and 37; it's an F-1 movement log the secret
11 service maintains for the White House.

12 Could you just take a moment and examine
13 it?

14 A Yes.

15 (Witness reviews the document.)

16 BY MR. NAPPI:

17 Q Your name is listed as entering the White
18 House residence.

19 A Right.

20 Q Do you recall this visit to the White House
21 residence?

22 A In a general way, yes.

1 Q In a general way, okay. Were you there for
2 a meeting?

3 A I was.

4 Q Whom did you meet with?

5 A The President and a group of his advisers.

6 Q Was it a meeting regarding -- strike that.

7 Are the advisers listed on this sheet who
8 were in attendance at that meeting?

9 A Yes, at least some of them are.

10 Q Can you describe who attended that meeting?

11 A It would appear that Mr. Panetta,
12 Mr. Morris, I believe that one of these references is
13 to Douglas Schoen, misspelled here.

14 Q Could you spell his name for the record?

15 A I think it's S-C-H-O-E-N.

16 Q Okay, fair enough. Because I was trying to
17 figure out who Scone was.

18 A The Vice President. This second page is
19 the same document?

20 Q Yes, it's a continuation.

21 A Mr. Ickes and Mr. Bowles.

22 Q Do you recall where this meeting took

1 place?

2 A In the President's study on the second
3 floor.

4 Q On the second floor. During this visit to
5 the residence, did you enter any other room within
6 the White House residence?

7 A No.

8 Q So you came in, you went to the President's
9 study, and you left?

10 A That's almost certainly correct. There was
11 one occasion --

12 MR. PORTNOY: Can we go off the record for
13 a second?

14 (Discussion off the record.)

15 BY MR. NAPPI:

16 Q During this visit on August 3rd, did you go
17 to the third floor of the White House residence?

18 A I did not.

19 Q You did not. Did the conversation at this
20 meeting relate to the existence of Rose law firm
21 billing records?

22 A No, it did not.

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1 Q Okay. I'd like to show you another record,
2 it's Bates stamp S020025, which is a copy of the
3 White House usher's log for Thursday, August 10th,
4 again I would direct your attention to a listing OTR,
5 10:55.

6 A Yes.

7 Q Do you recall attending this meeting in the
8 White House residence?

9 A Generally yes.

10 Q Are you aware what the designation OTR
11 means?

12 A I believe it means off the record.

13 Q Was this a meeting?

14 A Yes, it was.

15 Q Was it attended by the same persons that
16 attended the August 3rd meeting?

17 A With the exception of Mark on this one and
18 Schoen not being on this one, I can't -- I can't
19 attest to the accuracy of the records, but --

20 Q Yes.

21 A -- I --

22 Q To the best of your recollection.

1 A To the best of my recollection,
2 Vice President, Panetta, Ickes, Bowles, myself and
3 the President were at these meetings.

4 Q Okay. And Mr. Morris?

5 A Did I miss Dick? Yes, Mr. Morris.

6 Q Okay. Do you recall where this meeting was
7 held?

8 A Again, in the President's study.

9 Q All right. During this particular visit to
10 the White House residence, did you go to the third
11 floor of the residence?

12 A I did not.

13 Q All right. I'd like to show you a record,
14 again it's an F-1 movement log, it's Bates stamp, the
15 same cadence 49 through 50.

16 And I direct your attention to the first
17 page, there is an insert Leon Panetta, plus two,
18 followed by VP Gore, Mr. Stephanopoulos and
19 Mr. Gooden.

20 Do you recall entering the White House
21 residence with Leon Panetta on this instance?
22 Otherwise stated, are you one of the two others with

1 Mr. Panetta?

2 A I can't say with any certainty that I am.
3 I believe, however, that I was at this meeting.

4 Q Okay. To the best of your recollection,
5 who else attended this meeting?

6 A The same group we've discussed earlier,
7 again generally speaking, I can't be certain that one
8 of them or more was absent on this occasion.

9 Q So you don't have any specific recollection
10 of who was at this meeting?

11 A Well, let me back up. We had regular
12 meetings in the study, it was a small group that
13 included the people we've discussed earlier, I can't
14 be certain unless their names appear on these sheets
15 that each person was at each meeting.

16 Q Yeah, okay, that's fair.

17 A So, you know, it's possible, for example,
18 that Bowles was out of town this day --

19 Q Yeah.

20 A -- I can't be certain of that. But
21 generally speaking, the group we've discussed is the
22 group that attended these meetings.

1 Q Okay. So Mr. Panetta, the Vice President,
2 Mr. Stephanopoulos, Mr. --

3 A No.

4 Q Not Mr. Stephanopoulos?

5 A Not as a general matter. There came a time
6 when Mr. Stephanopoulos joined these meetings. I did
7 not think it was this early to be honest. Mr. Gooden
8 is not a participant in these meetings.

9 This record by the way indicates that
10 Mr. Stephanopoulos came down 30 minutes after he went
11 up, so it does not --

12 Q I asked that because he appears to enter at
13 or about the same time as Mr. Panetta and his two
14 guests and the Vice President.

15 A Right. But it doesn't appear that he
16 stays, which is --

17 Q Well --

18 A -- odd.

19 Q -- maybe we're getting sidetracked here.

20 MR. BLEAKLEY: Yes, we're getting
21 sidetracked, the question is what does he remember.

22 MR. NAPPI: Yes.

1 BY MR. NAPPI:

2 Q Do you recall where this meeting --

3 A This would have been in the President's
4 study.

5 Q Do you recall any discussion regarding the
6 existence or discovery of Rose law firm billing
7 records at this meeting?

8 A No.

9 Q All right. The next record I want to show
10 you is another F-1 movement log S020329. It's for
11 Friday, August 11th, and it shows the Vice President
12 entering the residence; it doesn't reflect that
13 anyone was with him.

14 Do you recall entering with Vice President
15 Gore at this time and on this date?

16 A No, I do not.

17 Q Okay.

18 MR. PORTNOY: Just so the record is clear
19 so Mr. Quinn knows what he's looking at, I don't
20 believe we've made known to Mr. Quinn that these
21 records are secret service records that reflected
22 White House movement.

1 Mr. Nappi pointed out that one of the prior
2 records was an usher's log; these are secretary
3 service logs.

4 BY MR. NAPPI:

5 Q The F-1 movement logs are maintained by the
6 secret service or I have been told they've been
7 maintained by the secret service guys who are on the
8 first floor.

9 A Right.

10 Q Okay. The next one is another secret
11 service F-1 movement log, it's Bates stamp S020054.
12 I direct your attention to the insert for Kendall
13 plus five. It's Saturday, July 22nd.

14 Do you recall being amongst the five
15 individuals who accompanied Mr. Kendall?

16 A No. At this point I was the
17 Vice President's Chief of Staff, so I did not --

18 Q Okay.

19 A -- nor was I -- never mind.

20 Q Do you recall any -- other than the
21 instances we've discussed that are documented here
22 that you do recall entering the second floor of the

1 White House residence, do you recall any other
2 instances between the time period July 20th and
3 August 15th, 1995 when you were in the White House
4 residence?

5 A I do not.

6 Q Have you ever -- do you know of a room on
7 the third floor of the White House residence known as
8 the book room?

9 A I've heard about it.

10 Q Have you ever been in the book room?

11 A I have not.

12 Q Okay. Prior to January 4th, 1996, were you
13 aware that certain Rose billing records were being
14 maintained anywhere in the White House or the White
15 House residence?

16 A No.

17 Q The beginning of August of 1995, did you
18 become aware of -- that the RTC Inspector General had
19 issued a report regarding the Rose law firm's
20 representation of Madison Guaranty?

21 A No.

22 Q Okay. I'll show you one more record

1 regarding this time period. This is a -- what they
2 describe as a waves record, it shows entries and
3 exits into the White House, it's Bates stamp
4 S020073.

5 I would direct your attention to one of the
6 entries on the 26th, it's a visit by James Lyons to
7 the First Lady.

8 A Yes.

9 Q Do you recall seeing Mr. Lyons in the White
10 House residence or in the White House on July 26th of
11 '95?

12 A I certainly -- well, no, I don't have a
13 specific recollection of that, but it would not be
14 uncommon for Mr. Lyons to call or visit me when he
15 was in town.

16 Q Do you recall seeing him in July or August
17 of '95?

18 A I don't specifically recall that, but,
19 again, if he were in town, there would be some
20 likelihood that I would have seen him.

21 Q You don't recall any conversations with
22 Mr. Lyons regarding the existence of Rose billing

66

1 records?

2 A I'm confident that I never did have such
3 conversations with him.

4 Q Or the Rose law firm's representation of
5 Madison Guaranty?

6 A Right, I'm confident that I didn't have
7 conversations with him at that time about those
8 matters.

9 Q Okay. The next record I want to show you
10 is Bates stamp S020564 consecutively through
11 S020585. They're handwritten notes of Mark Gearan,
12 if you want to take a moment to review them.

13 I would direct your attention specifically
14 to the two pages that are tagged in there, but take
15 your time.

16 A Yes.

17 Q Okay. Actually, why don't we start over
18 here on page 577?

19 A Yes.

20 Q There is a reference there to it says
21 "Quinn, arm's length." Is that reference to you?

22 A I assume so.

1 Q Were you present at this meeting?

2 A I do not believe so.

3 Q Were you present at any of the Whitewater
4 response meetings --

5 A I don't believe so.

6 Q -- in the beginning of January '94?

7 A No.

8 Q Judging from Mr. Gearan's notes and
9 testimony, it appears that Harold Ickes made this
10 comment.

11 Do you recall any discussions with
12 Mr. Ickes that could have led to this attribution?

13 A No.

14 Q Could you take a moment and read
15 that -- the page prior to --

16 A As to what it means?

17 Q Yes.

18 A I mean I could only speculate as to what it
19 means.

20 Q Okay. Your name seems to come up in the
21 context of Beverly Bassett Schaffer or a discussion
22 of Beverly Bassett Schaffer.

1 Do you recall having any discussions with
2 anyone on the White House staff regarding Beverly
3 Bassett Schaffer?

4 A No.

5 Q Another subject matter contained in these
6 notes is the appointment of a special counsel to
7 investigate Whitewater.

8 Do you have any recollection of any
9 discussions with Mr. Ickes regarding the appointment
10 of a special counsel?

11 A I do not.

12 Q Do you recall discussions with anyone on
13 White House staff regarding the appointment of
14 special counsel in January of '94?

15 MR. PORTNOY: Before you answer, Mr. Quinn,
16 let me just state for the record that the committee
17 has heretofore declined to inquire into matters
18 pertaining to the investigation by the independent
19 counsel.

20 I don't believe that Mr. Nappi's question
21 goes to that subject, but I'd like the record to be
22 clear before you respond to any questions pertaining

1 to the independent counsel.

2 MR. NAPPI: I think you have to have an
3 appointment before you have an investigation.

4 THE WITNESS: Do you want to restate the
5 question, I'm sorry?

6 MR. NAPPI: Could you repeat the question?

7 (The reporter read back the portion as
8 requested.)

9 THE WITNESS: I don't have any specific
10 recollection of such discussions other than there
11 perhaps being a report at a senior staff meeting by
12 Mr. Nussbaum to the effect that this might happen or
13 had happened or would happen.

14 BY MR. NAPPI:

15 Q That being the appointment of a special
16 counsel?

17 A Right.

18 Q Okay. Did you ever offer any advice
19 in -- let's focus on the time period December '93,
20 January '94, did you ever offer any advice to anyone
21 on White House staff regarding the handling of the
22 Whitewater/Madison Guaranty matter?

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1 A I don't believe so.

2 Q Were you ever asked to approach Beverly
3 Bassett Schaffer?

4 A I was not.

5 Q So it is your testimony that you have no
6 knowledge as to why this reference to you appears in
7 these notes?

8 A It's certainly my testimony I have no
9 knowledge as to why it appears. As I indicated
10 earlier, I can only speculate as to what it means, I
11 have no knowledge of that.

12 Q Okay. Could you speculate what it means?

13 MR. PORTNOY: Let's go off the record for a
14 second.

15 (Discussion off the record.)

16 BY MR. NAPPI:

17 Q If you don't feel comfortable
18 speculating --

19 A Look, I -- when I learned of this reference
20 to me, I first of all believed --

21 MR. BLEAKLEY: The question is
22 speculation. He's not asking you for the background

1 or when you learned it. If you're going to answer,
2 just answer the question what your speculation is.

3 THE WITNESS: I'm going to speculate. My
4 speculation is this is descriptive of me as having
5 been at arm's length from something or being at arm's
6 length from something.

7 BY MR. NAPPI:

8 Q Trying to keep your distance from an issue
9 or --

10 A I think it simply suggested -- it suggested
11 to me that I was remote from this situation, that was
12 my speculation.

13 Q All right. Were you aware in January -- in
14 the beginning of January '94 that there were a group
15 of White House staff who were working on response to
16 the Whitewater issue?

17 A I don't know if I was aware back then.
18 It's really hard to, you know, recall exactly how
19 much of this was public at this time, but I was not
20 part of this group.

21 Q Okay. And you weren't at any of these
22 meetings as you recall?

1 A I certainly don't believe so.

2 Q Okay. Why don't we move back a few pages
3 to -- actually if I could ask -- pose one more
4 question.

5 Were you ever approached by Harold Ickes to
6 become involved in the White House efforts to respond
7 to the Whitewater matter?

8 MR. BLEAKLEY: You mean while he was still
9 on the Vice President's staff?

10 MR. NAPPI: Yes.

11 THE WITNESS: I don't believe so.

12 BY MR. NAPPI:

13 Q Again, I'm focusing again on the beginning
14 of January of '94.

15 A Right, and I don't believe so.

16 Q What about Mr. McClarty?

17 A I do not believe so.

18 Q Mr. Lindsey?

19 A No.

20 Q Paul Begala?

21 A No.

22 Q David Gearan?

1 A No.
2 Q George Stephanopoulos?
3 A No.
4 Q Neal Eggleston?
5 A No.
6 Q Joel Klein?
7 A No.
8 Q Michael Waldman?
9 A No.
10 Q Maggie Williams?
11 A No.
12 Q The President or the First Lady?
13 A No.
14 Q And I'm not sure if I've stated -- I've
15 asked this question. But you don't recall at any
16 time, again, we're focusing on the beginning of
17 January of '94, offering any advice regarding how to
18 manage Whitewater -- the issue that is generally
19 known as Whitewater/Madison?
20 A Being asked by people on the White House
21 staff, I don't recall ever -- I don't recall ever
22 asking advice to people on the White House staff.

1 Q Okay. If I could direct your attention
2 to --
3 A This page?
4 Q -- to this page, which is 572.
5 A Right.
6 Q It starts with the designation VPOTUS.
7 That's the Vice President; right?
8 A I assume so.
9 Q Do you have any understanding of the
10 circumstances surrounding the creation of these notes
11 or what these notes reflect?
12 A No. You'd have to ask Mr. Gearen. No, I
13 mean I don't know -- I can't even really tell what
14 this date is, 5 January.
15 Q I think it's January 5th.
16 A I see.
17 Q Do you recall being with the Vice President
18 and Mr. Gearen on January 5th?
19 A I do not.
20 Q Do you recall in the beginning of January
21 of discussing the Whitewater issue with the
22 Vice President?

1 A I don't have any specific recollection of
2 that.

3 MR. PORTNOY: I'd like the record to
4 reflect that at the time Mr. Quinn was serving as
5 counsel to the Vice President, and as a consequence,
6 I would think that his objection to inquiries
7 regarding his conversations with the President or the
8 First Lady are equally pertinent to any conversations
9 he may have had with the Vice President.

10 MR. NAPPI: Okay.

11 THE WITNESS: Let's see what your question
12 is.

13 BY MR. NAPPI:

14 Q Did the Vice President ever discuss with
15 you a willingness to speak in public regarding --

16 A Yes.

17 Q -- Whitewater?

18 MR. BLEAKLEY: Let him finish the question,
19 Jack.

20 MR. NAPPI:

21 Q Regarding Whitewater?

22 A Yes.

1 MR. BLEAKLEY: Now, you're not going to ask
2 him to divulge the substance of conversations that he
3 had with the White House -- with the Vice President
4 while he was Chief of Staff or counsel to the
5 Vice President about the conduct of his duties,
6 because he's not going to answer any of those
7 questions.

8 MR. NAPPI: Even with respect to press
9 inquiries or --

10 MR. BLEAKLEY: Even with respect to press
11 inquiries.

12 MR. NAPPI: Okay.

13 BY MR. NAPPI:

14 Q There's a reference under -- in the notes
15 under VPOTUS to the need to dump all documents.

16 Do you have any understanding what that
17 reference reflects?

18 MR. BLEAKLEY: Ask him if he has any
19 personal knowledge of what that means.

20 BY MR. NAPPI:

21 Q Sure. Do you have any personal knowledge
22 of what that means?

1 A I don't have personal knowledge, and I can
2 only speculate.

3 Q Okay.

4 MR. BLEAKLEY: I think we have enough
5 speculating.

6 MR. NAPPI: Okay, thank you.

7 THE WITNESS: There is something that
8 should be said about this. I mean let me speculate
9 to this extent, there was discussion at the time
10 about the importance of getting all the documents out
11 publicly as soon as possible and to the fullest
12 extent possible, and I know that at the time the
13 Vice President thought that was absolutely
14 essential.

15 BY MR. NAPPI:

16 Q Okay. And do you know if the
17 Vice President shared that belief with anyone else
18 within the White House, obviously Mr. Gearen -- well,
19 not obviously, but possibly Mr. Gearen?

20 A It appears that that's what he conveyed to
21 Mr. Gearen on the 5th of January.

22 Q Do you have any personal knowledge of him

1 conveying that belief to other White House staff
2 members?

3 A I do not.

4 Q To the President or the First Lady?

5 A Or anyone else, no.

6 Q No?

7 A No, I have no personal knowledge of that.

8 Q All right. Have you ever had any
9 discussions with anyone on the White House staff
10 regarding the Rose law firm's representation of
11 Madison Guaranty in front of the Arkansas Securities
12 Board regarding the establishment of a broker dealer
13 or any efforts to recapitalize Madison?

14 A Are you -- when you refer to the White
15 House staff, are you talking about my office or
16 others in the White House?

17 Q Anyone in the White House staff that you
18 can recollect.

19 A That matter almost certainly would have
20 been referenced in some discussion in my office of
21 your hearings, for example.

22 Q Outside of discussions regarding hearings

1 that were being held in the Senate or the House?

2 MR. PORTNOY: Let's go off the record.

3 (Discussion off the record.)

4 BY MR. NAPPI:

5 Q I pose the same question with respect to
6 White House staff outside of the White House
7 Counsel's Office.

8 A The answer would be no.

9 Q Okay. President? The First Lady?

10 A It's inappropriate.

11 Q That would be privileged. All right. I'd
12 like to show you a record, now it's difficult to make
13 out the Bates stamp actually on this copy. It's a
14 page containing four message pads all directed to
15 Judge H.

16 A Yes.

17 Q Okay. I direct your attention to the
18 message slip dated October 27th, the time 5:35, and
19 it's a call from Jim Lyons.

20 Could you read the message?

21 A Is meeting with Bruce Lindsey, if you need
22 to reach him, suggest you take documents he needs to

1 look at with you tomorrow when you meet Jack Quinn
2 for lunch.

3 Q Do you have any recollection of the lunch
4 that is referred to --

5 A I do.

6 Q -- in this meeting message? Did it take
7 place on October 28th, to the best of your
8 recollection?

9 A I believe so.

10 Q Okay. Where did this lunch take place?

11 A In the White House mess.

12 Q Okay. You were there, Mr. Hubbell was
13 there and Mr. Lyons was there?

14 A I believe that's correct.

15 Q Was anyone else --

16 A I don't believe so.

17 Q Do you recall how long the lunch lasted?

18 A No.

19 Q Do you recall who arranged this lunch?

20 A I believe it was -- I believe I invited
21 Judge Hubbell to lunch.

22 Q What about Mr. Lyons, did you invite him?

1 A My memory is that after arranging the
2 lunch, Lyons came to town and that I then invited him
3 to join Judge Hubbell and me at the lunch.

4 Q How long have you known Jim Lyons?

5 A Since late in 1992 when we met during the
6 transition.

7 Q Okay. Did you regularly have lunch with
8 Mr. Hubbell?

9 A No.

10 Q Was there a specific purpose behind this
11 lunch?

12 A No, it was of a social nature.

13 Q Did you see Mr. Lyons on October 27th, the
14 day before the lunch?

15 A I don't recall if I did or not.

16 Q You don't recall if you were at this
17 meeting with Bruce Lindsey and Mr. Lyons referred to
18 in the message?

19 A No, I recall I was not at that meeting.

20 Q Okay. Did you see Mr. Lyons prior to the
21 lunch engagement on the 28th?

22 A I don't recall, but it's possible.

1 Q The documents referred to, do you recall
2 them being transferred by Mr. Hubbell to Mr. Lyons
3 during this lunch?

4 A No, I'm confident that there was no
5 transfer of documents during this lunch.

6 Q Did Mr. Hubbell bring any documents to the
7 lunch?

8 A He had a package with him before lunch
9 which he stored during the lunch. Before we went
10 into lunch, he put some package that he had with him
11 in storage outside the mess, and I recall that he
12 retrieved it after the lunch.

13 Q Did he give this package to Mr. Lyons in
14 your presence?

15 A Not in my presence.

16 Q Did Mr. Hubbell have a pass, a White House
17 pass, could he enter and exit freely?

18 A I don't know the answer to that.

19 Q Did you check him in on this occasion?

20 A I did not, it's possible that my secretary
21 did. He was the Associate Attorney General of the
22 United States at the time, I don't think he would

1 have had much difficulty getting in.

2 Q Were there any discussions during lunch
3 regarding records relating to Whitewater?

4 A No, there were not.

5 Q Were there any discussions regarding
6 records relating to Madison Guaranty?

7 A No, there were not.

8 Q Were there discussions regarding records
9 relating to David Hale or Capital Management
10 Services?

11 A No, there were not.

12 Q Were there any discussions of Whitewater
13 during this lunch?

14 A No, there were not.

15 Q Were there any discussions of Madison
16 Guaranty during this lunch?

17 A No, there were not.

18 Q Were there any discussions of David Hale or
19 Capital Management Services?

20 A No, there were not.

21 Q Any discussions of Paula Casey?

22 A No.

1 Q Any discussions regarding RTC criminal
2 referrals --

3 A No.

4 Q -- relating to Madison?

5 A No.

6 Q Are you aware that several weeks prior to
7 the date of this lunch Mr. Lyons had contacted
8 Mr. Lindsey regarding press inquiries?

9 MR. PORTNOY: Was he aware at the time or
10 is he aware now?

11 MR. NAPPI: You're right.

12 BY MR. NAPPI:

13 Q At the time of the lunch, were you aware
14 that Mr. Lyons contacted Mr. Lindsey regarding press
15 inquiries about RTC criminal referrals on Madison?

16 A No.

17 Q When the lunch ended, did you all go your
18 separate ways?

19 A I believe so.

20 Q All right.

21 A Well, let me -- I believe I went my
22 separate way, I have no idea what they did.

1 Q All right. You left the White House mess,
2 did Mr. Hubbell and Mr. Lyons leave together?

3 A I don't have any memory of that.

4 Q Okay. Did you see Mr. Lyons at any other
5 occasion other than this lunch during this particular
6 visit he made to Washington in late October of '93?

7 A I don't recall. Lyons is a friend and I
8 may have.

9 Q Do you recall any conversations with Lyons
10 regarding Whitewater in October of '93?

11 A No, I do not.

12 Q Any conversations regarding RTC criminal
13 referrals?

14 A No, I do not.

15 Q Any conversations with Judge Hubbell
16 regarding records he had in his possession that
17 relate to Whitewater?

18 A No.

19 Q Do you presently have any knowledge that --
20 strike that.

21 Do you remember how big the package was
22 Mr. Hubbell brought to lunch and checked?

1 A I don't.

2 Q Was it a banker's box?

3 A No, I -- I just don't have -- I just recall
4 that he put this thing aside during lunch and didn't
5 bring it with him, but I couldn't give you a physical
6 description of it. I recall that he had a package
7 with him.

8 MR. NAPPI: Okay. I have no further
9 questions.

10 MR. PORTNOY: I have no questions,
11 Mr. Quinn.

12 MR. NAPPI: All right. Why don't we go off
13 the record.

14 (Thereupon, at 12:33 p.m., the deposition
15 was concluded.)

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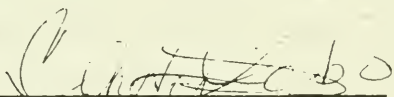
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JOHN M. QUINN

CERTIFICATE OF NOTARY PUBLIC & REPORTER

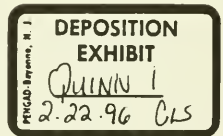
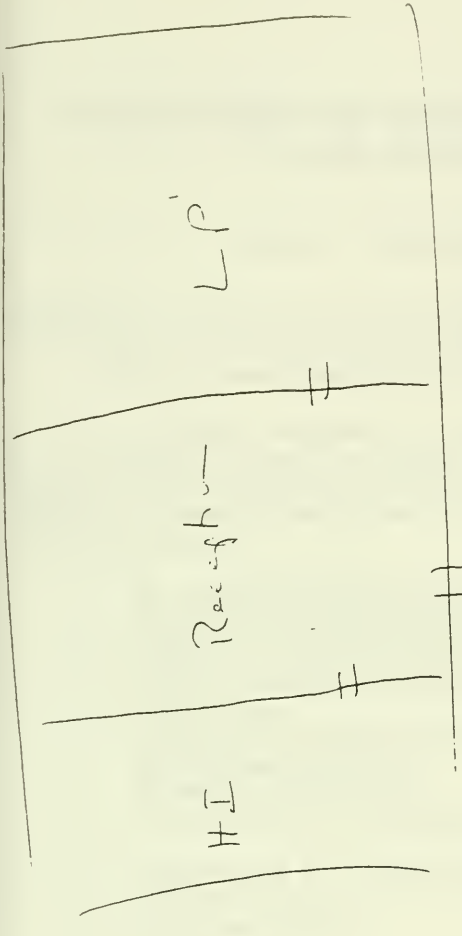
I, CINDY L. SEBO, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

[illegible]



**DEPOSITION OF KAREN QUEEN HARE
IN RE: S. RES. 120**

FRIDAY, FEBRUARY 23, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of KAREN QUEEN HARE, called
for examination pursuant to notice of deposition, at 4:00 p.m. in
Room 640-A of the Hart Senate Office Building, before SHEILA M.
LYONS, a Notary Public within and for the District of Columbia,
when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.
Majority Associate Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

GEOFFREY B. TREECE, Esq.
Hardin & Grace
410 West Third St.
Suite 200
Little Rock, Arkansas 72201
On behalf of the Deponent.

CONTENTS

WITNESS

EXAMINATION

Karen Queen Hare

by Mr. Bartolomucci 3

P R O C E E D I N G S

Whereupon,

KAREN QUEEN HARE

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. BARTOLOMUCCI:

Q Okay. We are on the record now. This is Chris Bartolomucci. As you know, Ms. Hare, I'm an associate special counsel with the Committee here. Before we went on the record, we had a discussion about the fact that you would be sworn in over the phone, and you and your counsel agreed to that procedure; right?

A Yes.

Q Okay. Before we begin the questioning, there is some preliminary information I want to impart to you. This is a deposition being conducted pursuant to Senate Resolution 120. That resolution establishes a Special Committee under the Senate's Banking Committee to conduct an investigation of Whitewater Development Corporation and certain other

related matters, including matters related to Madison Guaranty Savings & Loan.

This deposition is being conducted in advance of public hearings and you may or may not be called to testify at those hearings. If you don't understand a question, just let me know and I will rephrase it. And similarly, tell me if you need a break.

Our court reporter will prepare a record of questions and answers and your deposition will be treated as Committee confidential until the commencement of the hearings. Prior to hearings, you will receive a letter from the Committee informing you that you can make corrections to your deposition transcript for typographical errors and the like.

If you are called to testify at a public hearing, you will be given a copy of your deposition. Our usual policy has been to give it four days in advance of a hearing appearance.

I note that you are represented by counsel today, as is your right.

Mr. Treece, would you just identify

1 yourself for the record.

2 MR. TREECE: My name is Geoffrey B.
3 Treece. I'm with the law firm of Hardin & Grace in
4 Little Rock, Arkansas.

5 BY MR. BARTOLOMUCCI:

6 Q Thank you. Just so you know, objections to
7 the forms of questions will be noted for the record,
8 and counsel may object on grounds of privilege or
9 relevance. And the Committee Chairman, however, may
10 rule on objections and their validity if a witness
11 refuses to answer a question.

12 MR. TREECE: May I ask a question?

13 MR. BARTOLOMUCCI: Of course.

14 MR. TREECE: Is it my understanding that
15 any issue that may come up with respect to an
16 objection that is made here would be determined by
17 the Chairman? And I guess the question I'm asking is
18 whether or not any of the District Courts, federal
19 District Courts would have any jurisdiction over
20 anything that we are going to do here today.

21 Specifically I note that we are here in
22 Little Rock, you are there in Washington, D.C., and

1 we have been sworn in over the phone. But I just
2 wanted to make -- to determine whether or not the
3 Federal District Courts might have any jurisdiction
4 over anything we might do today. In the event there
5 was a dispute that was appropriate to be heard or
6 determined by a Federal District Court, I wanted to
7 make certain that we would be looking at jurisdiction
8 here as opposed to Washington, D.C. since we are
9 being deposed here, notwithstanding the fact that you
10 are there. I don't know if I articulated that well.

11 MR. BARTOLOMUCCI: Let's go off the record
12 for a minute.

13 (Discussion off the record.)

14 MR. BARTOLOMUCCI: We are going to go back
15 on the record, and I think Mr. Treece wants to state
16 something for the record.

17 MR. TREECE: Just for the record, I just
18 wanted to state on behalf of Ms. Hare that by virtue
19 of our giving this deposition today, we are not
20 consenting to jurisdiction to Federal District Court
21 in Washington. I'm not sure that there is any way to
22 articulate it other than that way.

1 Our position would be, in the event of any
2 dispute, that ultimate jurisdiction should be in a
3 Federal District Court sitting in Little Rock.

4 MR. BARTOLOMUCCI: And again, just for the
5 record, we are not agreeing or disagreeing with your
6 objection, but just giving you the opportunity to
7 raise it and preserve it for the record.

8 MR. TREECE: Yes, sir, I understand that.

9 MR. BARTOLOMUCCI: Okay, so can we go
10 forward now?

11 MR. TREECE: Sure.

12 BY MR. BARTOLOMUCCI:

13 Q Ms. Hare, a little bit of background
14 information first. Would you tell me where you went
15 to law school and when you graduated.

16 A I went to law school at the University of
17 Arkansas here in Little Rock. I graduated in
18 December of 1984.

19 Q Okay. And where did you go to work after
20 graduation?

21 A In March of 1985, after I passed the Bar in
22 February, I went to work for Greg Hopkins in Little

1 Rock.

2 Q Now, was that at a firm called Hopkins &
3 Irwin?

4 A Well, initially, when I joined the firm, it
5 was not Hopkins & Irwin. It was Gregory Hopkins,
6 PA. At some point in the future, I would say within
7 the year, a lawyer named Joe Irwin partnered with
8 Mr. Hopkins and it was then Hopkins & Irwin.

9 Q Okay. Did the firm go by any other names
10 during the time that you worked there?

11 A Yes. It was -- gosh, there was at one time
12 a couple of other partners, Owens and Bryant. I
13 don't know exactly how it went but it was Hopkins,
14 Owen, Bryant & Irwin or some such a thing.

15 That firm split up and Mr. Hopkins, myself,
16 and Joe Irwin -- I don't recall if Joe Irwin left
17 with us at that point, but we split back off from
18 Bryant and Owen.

19 Q Would you say that this was essentially
20 Mr. Hopkins's law firm?

21 A As it related to me, Greg Hopkins hired me
22 and I essentially went with him when he joined

1 others, so as it related to me, yes. As it related
2 to the rest of the world, probably that is not
3 accurate.

4 Q Okay. You joined the firm in March of
5 '85. When did you leave it?

6 A November of '89.

7 Q And where did you go as of November '89?

8 A I joined Southwestern Bell Telephone
9 Company. I'm an in-house lawyer for that company,
10 and that is where I am today.

11 Q Okay. During the time that you were at the
12 Hopkins law firm, were you an associate or a partner?

13 A I was an associate.

14 Q The entire time?

15 A Yes.

16 Q And focusing upon the year 1987 --

17 A Okay.

18 Q -- do you remember how many attorneys were
19 with the firm in that year?

20 A In 1987, do you have an address that we had
21 in 1987? We stayed essentially in the same building
22 but we changed floors. If you can tell me what floor

10

1 we were on, I can answer that question.

2 Q I can tell you that you were at 1910 First
3 Commercial.

4 A Okay. Okay. At that time I believe there
5 was myself and two or three others.

6 Q Including Mr. Hopkins?

7 A Yes.

8 Q And presumably Mr. Irwin?

9 A Yes. And at various times there were -- I
10 don't know what time frames -- there were various
11 other associates that came through the firm that
12 stayed for various lengths of time.

13 Q And as of 1987, at least, you went by the
14 name Karen Queen?

15 A Yes, that is my maiden name.

16 Q Okay. And you currently go by Karen Queen
17 Hare; is that right?

18 A Yes.

19 Q Okay. Now, during the time that you were
20 at the Hopkins law firm, and I direct your attention
21 to 1987, do you remember handling a case called
22 Madison Guaranty Savings & Loan versus Dixie

1 Continental Leasing?

2 A Yes, I do.

3 Q And you represented Dixie Continental
4 Leasing in that matter; correct?

5 A That is my recollection, yes.

6 Q Okay. Do you remember what the case was
7 about?

8 A No. No, I don't.

9 Q If I told you that it was a suit to
10 foreclose on a loan, would that help your memory?

11 A I recall that it was a suit to collect on a
12 loan, but I don't recall any of the details about
13 that loan, or about the lawsuit itself.

14 Q Do you remember what person ran Dixie
15 Continental Leasing, or do you know who owned it, or
16 who was -- who operated it?

17 A It's my recollection that my contact on it
18 was Charles Peacock, III. I couldn't tell you today
19 what his legal relationship was with that company.

20 Q And as of 1987, what was your understanding
21 as to who Charles Peacock was?

22 A I'm sorry. What do you mean, as to who he

12

1 was?

2 Q Well, do you know how he was employed in
3 1987?

4 A No. Sitting here today, I just couldn't
5 honestly answer that.

6 Q Do you know what his relationship to
7 Madison Guaranty was?

8 A In 1987?

9 Q That's right.

10 A All I knew at the time was that he was
11 involved in different capacities in different pieces
12 of litigation with Madison at that point. I don't
13 know that there was another type of relationship
14 then.

15 Q Do you remember who represented Madison
16 Guaranty in that case?

17 A I remember dealing with various lawyers
18 from Madison, but I don't know, in that particular
19 case, I couldn't tell you who handled it.

20 Q Do you remember what law firm handled it?

21 A My recollection is that most, if not all,
22 of the lawyers I dealt with were at the Mitchell

1 firm.

2 Q That would be the Mitchell, Williams,
3 Selig & Tucker, I think it was known then?

4 A I don't know what it was known as then, but
5 that is the firm I'm referring to.

6 Q The Mitchell, Williams firm; right?

7 A Yes.

8 Q Do you remember involvement by a woman by
9 the name of Marcy Taylor?

10 MR. TREECE: In this lawsuit?

11 BY MR. BARTOLOMUCCI:

12 Q In this lawsuit, yes.

13 A Do I specifically recall that she was
14 involved in the lawsuit, no. I do recall that she
15 had represented Madison at different times.

16 Q I have a copy of a deposition in the
17 Madison Guaranty versus Dixie Continental Leasing
18 case. It indicates that Marcella Taylor of the
19 Mitchell, Williams firm was representing Madison and
20 you were representing Dixie Continental Leasing.

21 It was a deposition of Charles Peacock on
22 April 15, 1987. Do you remember that deposition?

14

1 A No. If you could tell me where it was or
2 something. I don't remember it.

3 Q Sure, it's in the Chancery Court of Saline
4 County --

5 A I mean, where was the deposition taken.

6 Q Okay. It indicates that it was held at
7 Ms. Taylor's office at the Mitchell, Williams firm,
8 1000 Savers Building.

9 A I kind of vaguely remember being there for
10 depositions. I can't tell you it was this particular
11 deposition. As you well know, there were other
12 pieces of litigation involving Madison that I dealt
13 with, so I don't have a specific recollection of the
14 Dixie deposition.

15 Q Why don't you tell me what you remember
16 about other litigation involving Madison and Charles
17 Peacock?

18 A Well, I don't know that, sitting here
19 almost 10 years later, that I could sit here and list
20 for you all the other litigation I handled. Madison
21 had collection cases against various -- I can't
22 answer that question.

1 If you ask me about a specific case, I
2 could tell you if I recall it and if I represented
3 them, but I frankly don't even recall which of the
4 cases I handled or which ones Mr. Hopkins handled.

5 Q Well, let me ask it this way. There were
6 several lawsuits going on in the 1987 time frame in
7 which Madison was seeking to recover on various loans
8 against Peacock and Peacock entities; right?

9 A I can't answer that about 1987, but
10 generally speaking, in that time frame, yes, that is
11 correct.

12 Q Okay. So setting aside the year, you
13 recall there being a number of lawsuits filed by
14 Madison against Charles Peacock or his companies
15 seeking to recover on loans?

16 A Yes.

17 Q Okay. And do you have any reason to doubt
18 that that was in the 1987 time period?

19 A I don't have any reason to doubt it. I
20 don't specifically recall that, but this is an
21 approximate, within a year or two of that, that is
22 probably correct.

1 Q And is it your testimony that you handled
2 some of these cases and Greg Hopkins would have
3 handled some of them?

4 A That is my recollection, yes.

5 Q Was Greg Hopkins involved in the Dixie
6 Continental Leasing case specifically?

7 A I don't specifically remember that.

8 Q But he certainly would have known about it;
9 right?

10 A I can assume that he would have, yes. I
11 was an associate in his firm, and he generally would
12 have known what cases I was dealing with, overall.

13 Q And it was a very small firm?

14 A By Little Rock standards, not necessarily.

15 Q Okay. Well, it was a three- or four-person
16 firm?

17 A Correct.

18 Q The deposition that I have indicates that a
19 woman named Pat Heritage attended the deposition on
20 behalf of Madison Guaranty. Do you know who Pat
21 Heritage is?

22 A Yes, I do.

1 Q Do you remember her being there?

2 A No, not specifically, no.

3 Q Do you remember why she was involved in the
4 case?

5 A I remember that she had some connection
6 with Madison. My recollection is she worked for
7 Madison at the time in some capacity, but other than
8 that, I really don't know.

9 Q Okay. Now moving to sort of the heart of
10 the matter, the Committee has learned that in April
11 of 1987, while the Dixie Continental Leasing case was
12 ongoing and these other matters were ongoing,
13 Mr. Hopkins contacted Pat Heritage.

14 My first question to you is, do you have
15 any knowledge that this happened?

16 A No. I know it because I know the Committee
17 has brought that up, but did I know that then, did I
18 know it other than the fact that the Committee has
19 alleged that. No, I did not know that.

20 Q Okay. Just so we are clear, other than
21 what you have learned from the Committee, you had no
22 knowledge that Greg Hopkins had contacted

1 Pat Heritage?

2 A Right, or the newspapers, but certainly not
3 through Greg or through working there in the firm at
4 the time.

5 Q All right. We have some information
6 apparently about what Mr. Hopkins and Ms. Heritage
7 talked about. Did Mr. Hopkins ever tell you that he
8 was going to try to have the Mitchell, Williams firm
9 disqualified from representing Madison?

10 A No.

11 Q Did you learn from any source that Hopkins
12 was thinking about having the Mitchell, Williams firm
13 disqualified from helping Madison?

14 A I don't think I have heard that until this
15 very moment.

16 Q Did Greg Hopkins ever talk to you about Jim
17 Guy Tucker being involved with Madison Guaranty or
18 Jim McDougal?

19 A No. I don't know.

20 Q Did Mr. Hopkins ever tell you that, because
21 of Jim Guy Tucker's involvement with Madison or
22 McDougal, that there was a conflict with respect to

1 Mitchell, Williams' representation of Madison?

2 A No, I have never heard that from

3 Mr. Hopkins.

4 Q Did you hear from someone other than

5 Mr. Hopkins?

6 A I just heard it from you, but no, I mean, I

7 read the papers just like everyone else does, and so

8 obviously I'm aware that at least the press alleges a

9 connection between Governor Tucker and Mr. McDougal.

10 But other than that, I have no knowledge of it.

11 Q You have no firsthand knowledge about it?

12 A No.

13 Q Did Mr. Hopkins ever tell you that people

14 were going to go to prison because of wrongdoing at

15 Madison?

16 A No, he never told me that.

17 Q Did Mr. Hopkins ever tell you that, well

18 strike that. Let me start again.

19 Did Mr. Hopkins ever express qualms to you

20 about his representation of Charles Peacock, or did

21 he ever express reservations about representing the

22 Peacocks?

20

1 A In what sense do you mean "reservations"?

2 Q Doubts as to the propriety of representing

3 them.

4 A No.

5 Q Did Mr. Hopkins ever indicate to you that

6 he had a problem in connection with his

7 representation of the Peacocks?

8 A A problem in what sense?

9 Q Well, anything that would make him consider

10 resigning his representation.

11 A Because of an issue regarding if it was --

12 I'm not sure I understand what you are saying.

13 There are a lot of reasons lawyers talk

14 about whether they want to keep clients, they are

15 obnoxious or they don't pay or they don't do a lot of

16 different things.

17 Are you asking me about those things? Are

18 you asking me about something that ethically troubled

19 him.

20 Q Well, let me ask it both ways. First, did

21 he ever say that he was thinking about resigning his

22 representation because the Peacocks weren't paying?

1 A I don't specifically recall him saying
2 that.

3 Q Let me ask a slightly broader question. Do
4 you remember Mr. Hopkins ever saying that he was
5 considering resigning his representation of Charles
6 Peacock, ending his representation of Peacock?

7 A Are you asking me did he ever say that? I
8 mean, I do not have a specific recollection of
9 Mr. Hopkins ever saying I'm going to tell the
10 Peacocks I can't represent them anymore.

11 And to the best of my recollection, he was
12 still representing them when I left in '89, or at
13 least that had not been severed.

14 Q Okay. I'm just asking for your best
15 recollection. You don't remember him expressing to
16 you the notion that he was thinking about terminating
17 his representation of the Peacocks?

18 A No.

19 Q Did Mr. Hopkins ever tell you that he
20 thought that the Mitchell, Williams firm was churning
21 the files in connection with Mitchell, Williams
22 representation of Madison?

22

1 A No, no. Absolutely, I know he never said
2 that.

3 Q Did you ever talk with Mr. Hopkins about
4 the Dixie Continental Leasing loan?

5 A I don't recall any specific conversations
6 with him. Discussing any case in the office with him
7 would have been a normal occurrence, but I don't
8 recall specifically discussing that case with him.

9 Q Did Mr. Hopkins ever indicate to you that
10 there was something fraudulent about the Dixie
11 Continental Leasing loan?

12 A Not that I recall.

13 Q Did Mr. Hopkins ever say to you that some
14 of the loan proceeds of the Dixie Continental Leasing
15 loan went to the Bill Clinton campaign?

16 A No.

17 Q Did you ever have any conversation with
18 Mr. Hopkins involving both the Bill Clinton campaign
19 and the Dixie Continental Leasing loan?

20 MR. TREECE: Would you ask that question
21 again?

22 BY MR. BARTOLOMUCCI:

1 Q The question is, did you ever have a
2 conversation with Mr. Hopkins which conversation
3 involved both the Dixie Continental Leasing matter
4 and the Bill Clinton campaign?

5 A I sure don't remember that, and I think I
6 would remember that. No. I mean, I can tell you no,
7 that kind of conversation never took place.

8 Q Apart from what you might have learned from
9 Mr. Hopkins or from the media or from this Committee,
10 do you know anything about the loan proceeds of the
11 Dixie Continental Leasing loan going to the Bill
12 Clinton campaign?

13 A No, I do not.

14 Q Did Mr. Peacock ever tell you what happened
15 to his loan proceeds from the Dixie Continental
16 Leasing loan?

17 MR. TREECE: That would be privileged and I
18 would instruct the witness she doesn't have to answer
19 the question.

20 MR. BARTOLOMUCCI: I take it that --

21 MR. TREECE: Anything that Mr. Peacock
22 might have told Ms. Queen -- Ms. Hare at any time

24

1 would be privileged information.

2 BY MR. BARTOLOMUCCI:

3 Q I understand. Has Mr. Peacock ever waived
4 the privilege in connection with your representation
5 of him?

6 A Not to my knowledge.

7 Q If Charles Peacock had told you that some
8 of his loan proceeds went to the Clinton campaign, is
9 it your position that a statement like that would be
10 within the scope of your representation of him?

11 A I don't follow that question.

12 Q Well, my point simply is that --

13 MR. TREECE: If he had told her?

14 BY MR. BARTOLOMUCCI:

15 Q My point is simply not everything a client
16 says is necessarily in furtherance of the legal
17 representation, and accordingly privileged. So I was
18 just trying to get your understanding as to whether,
19 if the statement about loan proceeds being diverted
20 to the Bill Clinton campaign was made, whether you
21 would believe that was, you know, a statement made in
22 furtherance of your representation.

1 A Okay, so ask me the original question
2 again, and I think I can answer you.

3 Q Okay. I think the original question was if
4 Charles Peacock told you that some of his loan
5 proceeds went to the Bill Clinton campaign, do you
6 understand that to be a communication made in
7 furtherance of your legal representation of him?

8 A Anything that Mr. Peacock would have told
9 me about proceeds of loans that were the subject of
10 litigation I was handling for him, I would have
11 considered to be told to me in assistance in
12 defending Mr. Peacock or the company that he was
13 associated with, so yes.

14 The answer to your question is I would
15 assume anything he told me about proceeds of loans at
16 that point would be privileged.

17 MR. PORTNOY: Can we take it, Ms. Hare,
18 that your response does not carry with it an
19 implication that you ever had a conversation with
20 Mr. Peacock on that subject?

21 THE WITNESS: I think that is clear from my
22 answer. What I responded was that any conversation

26

1 about any proceeds from a Madison loan I would
2 consider to be privileged, and certainly there is not
3 an implication there that we ever had that
4 conversation.

5 BY MR. BARTOLOMUCCI:

6 Q Did Charles Peacock ever talk to you about
7 Bill Clinton?

8 A Once again, I think that anything that he
9 told me about Bill Clinton, if he told me anything,
10 is privileged.

11 Q Why would a conversation about Bill Clinton
12 be within the scope of your representation in a
13 matter seeking foreclosure on a loan which on its
14 face had nothing to do with Bill Clinton?

15 A Well, let me just answer that question by
16 telling you that I don't recall having conversations
17 with Charles Peacock that weren't in my office with
18 him giving me information to give him legal
19 assistance.

20 Q Fair enough. My next question is, did Greg
21 Hopkins ever tell you that Charles Peacock had made
22 donations to the Bill Clinton campaign?

1 A Let me say this. In all honesty, I have a
2 general knowledge, or I have a general recollection
3 that either Mr. Peacock or some of the other Peacocks
4 had been supporters of Bill Clinton. I don't know
5 that I could tell you that I ever heard that they
6 donated specific amounts of money or anything like
7 that.

8 Q So you had a general understanding that
9 Charles Peacock or another Peacock had contributed to
10 the Clinton campaign?

11 A No, no. That is not what I said.

12 MR. TREECE: She said she understood in a
13 general sense that they were supporters. She didn't
14 know whether or not they had specifically made
15 campaign contributions.

16 BY MR. BARTOLOMUCCI:

17 Q Okay. I wasn't sure what you meant by a
18 supporter.

19 MR. TREECE: They might have passed out
20 literature.

21 BY MR. BARTOLOMUCCI:

22 Q Understood. You don't know whether or not

1 you would have learned that from Mr. Hopkins?

2 A I have no idea where I learned that.

3 Q Did Mr. Hopkins ever tell you that, in
4 exchange for campaign contributions, Bill Clinton
5 told Jim McDougal that an Arkansas state agency would
6 lease space from Madison?

7 A No.

8 Q Did you learn such information from anyone?

9 A No.

10 Q Have you ever seen a memorandum of
11 approximately three pages, typewritten, which gets
12 into some of these matters I have been questioning
13 you about?

14 A I have never seen that memo. I understand
15 there is one, I knew that it existed but I have never
16 seen it.

17 Q How did you come to know that the
18 memorandum exists?

19 A I think I read it in the paper.

20 Q And is what you read that someone prepared
21 a memorandum summarizing what Greg Hopkins allegedly
22 said to Pat Heritage?

1 A If you are referring to the memo that Lance
2 Miller wrote about what his perception was --

3 Q Right. That is the memo I'm talking
4 about.

5 A Yes, I literally read that in the
6 newspaper, is how I knew that memo was floating
7 around.

8 Q You have never seen it?

9 A I never have seen it.

10 Q After you read about it in the paper,
11 well -- first of all, when do you think you would
12 have read about it in the paper?

13 A I could tell you I believe it was this
14 summer, I was in St. Louis for the summer working on
15 the CWA contract for the company, and my recollection
16 is it was sometime during the July, August time
17 frame.

18 Q Would that be 1995?

19 A Yes, sir.

20 Q Okay. After reading that, did you have any
21 conversation with Mr. Hopkins about it?

22 A Yes, I did.

1 Q Okay. When did you first talk to
2 Mr. Hopkins about the matters you had read in the
3 newspaper?

4 A Actually, it was -- I remember I called
5 Mr. Hopkins from St. Louis. The purpose was
6 essentially that I had in the past had reporters
7 calling me about some of these matters, and
8 Mr. Hopkins, I believe, was mentioned in that
9 newspaper article, and my concern was that they would
10 try to contact me again.

11 Q Okay. So did you contact Mr. Hopkins to
12 get some guidance as to what you should tell the
13 reporters?

14 A No, no. I was simply, it was more along
15 the lines of gosh, you know, saw your name in the
16 paper kind of thing, and the reporters have called me
17 before. And I'm up in St. Louis, so I will
18 probably -- they won't be able to find me if they
19 try, type of thing. They can be fairly persistent,
20 as you know.

21 Q Do you remember reading in the paper about
22 that portion of the memo which alleges that the Dixie

1 loan went to the Clinton campaign?

2 A I don't specifically remember reading that
3 in that article.

4 Q Do you remember there being something about
5 the Bill Clinton campaign getting money?

6 A You know, I don't remember if it was in
7 that article or not. We are inundated down here in
8 Little Rock in the newspapers with this stuff. It
9 would be very difficult for me to say what I saw
10 when.

11 Q Well, when you talked to Mr. Hopkins that
12 time that you were in St. Louis, did you ask him
13 whether he had talked to Pat Heritage, in fact?

14 A No, we didn't talk about substance at all
15 in that conversation.

16 Q You didn't ask him whether it was true that
17 he had talked to Pat Heritage?

18 A Not that I recall.

19 Q You weren't curious about whether he had
20 said these things?

21 A I don't know how to answer that question,
22 was I curious about it? I don't even specifically

32

1 remember reading that he had had a conversation. I
2 have a general knowledge about that memo being
3 mentioned in the newspaper. I don't recall that it
4 said he had a conversation with Pat Heritage.

5 And let me just give you a little
6 background about the circumstances under which I was
7 talking to Mr. Hopkins. I was working about 20 hours
8 a day, seven days a week. I wasn't real concerned at
9 that point. I was trying to get a union contract
10 together. I wasn't real concerned about what
11 Mr. Hopkins told Ms. Heritage back in 1987, or
12 whatever the allegation is.

13 Q Now, Ms. Hare, the story wasn't newsworthy
14 because one Little Rock attorney had called someone
15 who worked for Madison Guaranty; right?

16 A I don't know what you are asking.

17 Q Well, why do you think this story was in
18 the newspaper?

19 A Well, I think my opinion about why things
20 are printed in the newspaper is probably not
21 something you want to hear.

22 Q All right. What sticks out in your mind

1 about what was in the newspaper account that made you
2 decide to call Greg Hopkins?

3 A Well, I think I already answered that.

4 Q Well, answer that question, as I have posed
5 it.

6 A All right. Ask it again.

7 Q What about the newspaper account that you
8 read stuck out in your mind such that you called to
9 talk to Mr. Hopkins?

10 A I worked for Greg Hopkins for a number of
11 years. I speak with him occasionally on the phone.

12 Just as if Mr. Treece's name had appeared
13 in the newspaper, I would have picked up the phone
14 and called Jeff, and said gee, Jeff, you made the
15 news.

16 Q And you don't remember Bill Clinton's name
17 being mentioned in these articles?

18 A Specifically remember Bill Clinton's name
19 being mentioned, no. Probably a fair assumption that
20 it was.

21 Q I'm sorry, did you finish your response?

22 A Yes.

1 Q Do you remember the Dixie Continental
2 Leasing matter appearing in the newspaper account?

3 A You know, I do not remember that, the Dixie
4 was mentioned in that. Sitting here today I don't
5 remember that being in there.

6 Q Well, when you talked to Mr. Hopkins, did
7 you ask him whether the allegations in the memo were
8 true?

9 A No.

10 Q Well, what did he tell you in this
11 conversation?

12 A The only thing I can remember that he said
13 to me was that something to the effect of a reporter
14 had actually shown up at his office door, and he was
15 sort of laughing about the persistence of the guy
16 because I said I wouldn't take their calls. And
17 finally this guy shows up on my doorstep and he is
18 relating the story about this reporter chasing after
19 him. That was pretty much the substance of the
20 conversation.

21 And I can remember saying, you know, what
22 is Angie's reaction to this, which is his wife, and

1 he said oh, nothing, you know.

2 Q In this conversation with him, did he deny
3 that he had said these things to Pat Heritage?

4 A It wasn't discussed at all.

5 Q My question was, did he deny that he had
6 said the allegations in the memo?

7 A He did not deny it, he did not admit it, he
8 did not discuss it.

9 Q Did he deny having talked to Pat Heritage?

10 A Once again, he didn't deny that or admit
11 that. It simply wasn't discussed.

12 Q Now, Ms. Hare, as an attorney, assuming
13 that Mr. Hopkins did in fact contact Ms. Heritage
14 during the onset or during the pendency of the Dixie
15 Continental Leasing case, do you think that is
16 ethically problematic?

17 A Well, first of all, I'm not going to assume
18 that he did contact her.

19 MR. TREECE: I don't know, I'm not sure
20 that there is an objection to the form there but I'm
21 going to raise it anyway, but --

22 BY MR. BARTOLOMUCCI:

1 Q Okay. I will withdraw the question and ask
2 you this one. Ms. Hare, let me ask you this. During
3 the Dixie Continental Leasing case, Pat Heritage was
4 an employee of Madison. Would you have contacted her
5 directly without going through her attorney first?

6 A Me personally?

7 Q Yes.

8 A I didn't know the woman, other than in the
9 Madison case, so me personally, no, I wouldn't have
10 called her directly.

11 Q Would you have contacted any Madison
12 employee without first going through the Mitchell,
13 Williams firm?

14 A I can't answer that. It would depend on
15 who it was, what my relationship was with them,
16 whether it was something I was dealing directly with
17 the lawyers on.

18 Q Are you aware of the ethical rule that
19 generally prohibits an attorney from contacting or
20 communicating with someone represented by another
21 attorney?

22 A Certainly.

1 Q So in light of that rule, you see nothing
2 problematic with Mr. Hopkins having a conversation
3 with Pat Heritage about the Dixie Continental Leasing
4 matter?

5 A I don't know the circumstances surrounding
6 that conversation, if that conversation even took
7 place, so I can't answer that question.

8 Q Okay. Subsequent to the conversation you
9 had with Mr. Hopkins when you were in St. Louis, did
10 you ever have any other conversations with him about
11 these same matters that we are discussing?

12 A I had talked with him on Tuesday of this
13 week after, I believe it was, whatever day it was I
14 talked to Mr. Brenner, I guess it was Monday, which
15 would have been February 19, when Mr. Brenner called
16 me and said that he wanted to take -- that you guys
17 wanted to take my deposition.

18 I felt, as a courtesy to Mr. Hopkins since
19 I was an associate in his firm at the time these
20 things came up, that he should know that I had been
21 contacted. I called and told him that I had been
22 contacted to give my deposition and thought he should

1 know that, since I was in his employ when these
2 events came up.

3 Q So you contacted him?

4 A Yes.

5 Q And what did he say to you?

6 A That he had given a deposition, that he
7 expected that he had been given an indication that he
8 would have to come to Washington, D.C. and testify.
9 That is about it.

10 Q Did he tell you what he had said in his
11 deposition?

12 A No. And specifically, you know, it's no
13 great surprise to me, nor would it be to Mr. Hopkins,
14 that you are asking me this question today, and with
15 both of us bearing that in mind we felt it would be
16 inappropriate to discuss in substance what you asked
17 him.

18 Q Well, I agree with you there. I just have
19 a few more questions for you.

20 To your knowledge, did Mr. Hopkins ever
21 attend Madison Guaranty board meetings?

22 A I don't know. I don't remember that.

1 Q Do you have any memory of a bankruptcy
2 petition filed by Mr. Hopkins on behalf of Peacock
3 Brothers? Do you have any memory of such a petition
4 being dismissed?

5 A I know that it was dismissed. I remember
6 that it was filed on behalf of Peacock Brothers. I
7 probably couldn't tell you the details of that.

8 Q Do you remember what reaction Mr. Hopkins
9 had, if any, to the dismissal of that petition?

10 A No. In fact, I don't even remember why or
11 how it was dismissed. I don't remember if we did
12 that voluntarily, or whether the Court did it for
13 some reason.

14 Q Do you remember attending a hearing prior
15 to the dismissal?

16 A Specifically on this, no, I was in
17 bankruptcy court about twice a week during that time
18 frame on 10 or 15 different cases. So no, I don't
19 have any recollection specifically of this case.

20 Q Do you remember anything about an
21 allegation that Charles Peacock had used a loan to
22 pay Mr. Hopkins's attorney's fees?

40

1 A No.

2 Q Other than the Committee and Mr. Hopkins,
3 have you talked to anyone else about these matters
4 that we have been discussing today? And of course
5 other than your attorney, also.

6 A About the substance of these things?

7 Q The substance of it, yes.

8 A No.

9 MR. BARTOLOMUCCI: Okay. I think that's
10 all I have for you at this time. Again, our
11 procedure is to let the Minority do some questioning,
12 so I'm going to turn it over to Mr. Portnoy.

13 MR. PORTNOY: I don't believe I have any
14 questions for you, Ms. Hare. I thank you for your
15 courtesy and for making yourself available to us.

16 MR. BARTOLOMUCCI: I do likewise. The
17 Committee appreciates it.

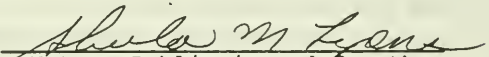
18 (Whereupon, at 4:55 p.m., the deposition
19 was concluded.)
20
21
22

KAREN QUEEN HARE

CERTIFICATE OF NOTARY PUBLIC & REPORTER

41

I, SHEILA M. LYONS, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires AUGUST 31, 1997

**DEPOSITION OF PATRICIA J. HAYS
IN RE: S. RES. 120**

FRIDAY, FEBRUARY 23, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Telephone deposition of PATRICIA J. HAYS, called for examination pursuant to notice of deposition, at 11:05 a.m. in Room 640-A of the Hart Senate Office Building, before PATRICIA A. ZUBER, a Notary Public within and for the District of Columbia, when were present:

H. CHRISTOPHER BARTOLOMUCCI, Esq.
Majority Associate Special Counsel
JAMES S. PORTNOY, Esq.
Minority Associate Special Counsel
U.S. Senate
Committee on Banking, Housing, and Urban Affairs
534 Dirksen Building
Washington, DC 20510
On behalf of the Committee.

JOHN BELEW, Esq.
Belew & Bell
500 East Main
Suite 208
Batesville, Arkansas 72501
On behalf of the Deponent.

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P R O C E E D I N G S

MR. BARTOLOMUCCI: I take it that neither of you object to a swearing in over the phone.

MR. BELEW: No.

THE WITNESS: No.

(Discussion off the record.)

Whereupon,

PATRICIA J. HAYS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. BARTOLOMUCCI: Ms. Hays, this is Chris Bartolomucci. As I think you know, I'm associate special counsel with the Committee. Before we begin the questioning, I have some preliminary information to impart to you.

This is a deposition conducted pursuant to Senate Resolution 120. That resolution establishes a Special Committee under the Banking Committee of the Senate to conduct an investigation of Whitewater Development Corporation and certain other related matters, including matters related to Madison Guaranty Savings & Loan.

As you know, this deposition is being held in advance of public hearings, and you will be asked to come and testify at those hearings.

You've been sworn in and this deposition is under oath. If at any time you don't understand a question, please let me know and I'll rephrase it. And likewise, tell me if you need a break at any point.

Our court reporter is going to prepare a record of the questions and answers, and your deposition will be treated as committee confidential until the commencement of the hearings. And as we've discussed a little bit earlier, I'll be providing you with a copy of your deposition, I'll try to send it out tomorrow. And at that same time you'll have an opportunity to make any corrections if there are typographical or similar sorts of errors to the deposition.

I note that you're represented by counsel today, as is your right. Mr. Belew, would you just state an appearance for the record.

MR. BELEW: Yes. My name is John M.

1 Belew. Admitted to practice in Arkansas and I am
2 Ms. Hays's lawyer.

3 MR. BARTOLOMUCCI: Objections to the form
4 of questions will be noted for the record and it's
5 permissible to object to questions on grounds of
6 privilege or relevance. The Committee Chairman,
7 however, may rule on objections if you refuse to
8 answer a question.

9 MR. BELEW: Chris, one very small matter,
10 Pat spells her name H-a-y-s.

11 MR. BARTOLOMUCCI: Okay. I thought it was
12 e-s, so that's a helpful note. Why don't we start
13 with Ms. Hays reciting her full name and spelling it
14 for the record.

15 THE WITNESS: Patricia J. Hayes, H-a-y-s.
16 EXAMINATION

17 BY MR. BARTOLOMUCCI:

18 Q And Ms. Hays, you previously went by the
19 surname of Heritage; is that correct?

20 A That's correct.

21 Q And you were known as Heritage the whole
22 time you worked at Madison Guaranty?

1 A Yes.

2 Q Okay. And you joined Madison Guaranty on
3 June 4th, 1985?

4 A That sounds approximately correct. I know
5 it was in June of '85. I don't remember the exact
6 date.

7 Q And when you joined Madison in June of '85,
8 your initial position was as an administrative
9 assistant to John Latham?

10 A Yes.

11 Q Am I right that later on you became a
12 collections officer?

13 A That's right.

14 Q Do you remember when you assumed that
15 position?

16 A Not exactly. John Latham would assign to
17 me duties connected to collections, and at some point
18 the collection officer left, and I sort of assumed
19 those duties. And then, of course, after John Latham
20 was ousted, they let me continue to have a job there
21 by performing the collections function.

22 Q And during the time you were a collections

1 officer, did you have responsibilities that included
2 involvement in Madison-related litigation?

3 A Yes, I did.

4 Q Okay. What sort of things would you be
5 involved in in connection with litigation?

6 A To determine when a loan should be sent to
7 a law firm for foreclosure or other collection
8 matters, be in contact with the law firm that was
9 representing Madison and, you know, just stay up to
10 date on the progress of the litigation.

11 Q And I assume you'd provide information to
12 the law firm related to the loans being foreclosed
13 upon?

14 A Right, of course.

15 Q Were you a -- did you have the position of
16 collections officer when you left Madison, was that
17 your last position?

18 A Yes, it was.

19 Q Am I right that you left Madison in May of
20 '87?

21 A That sounds right, yes.

22 Q Okay. Who did you report to during that

8

1 time you were a collections officer?

2 A I believe Steven Cuffman and Sarah Hawkins
3 were sort of comanagers, if you will, and I just
4 reported to them directly.

5 Q And am I correct that you began to attend
6 law school in August of '86?

7 A That's right. I attended night law school
8 while I worked full-time.

9 Q And at some point you joined the Rose Law
10 Firm?

11 A Right. I graduated in December of 1989.
12 The Rose Firm had actually hired me as a law clerk a
13 few months earlier, because the job I had had ended
14 when the office relocated to Atlanta, so I had a
15 chance for a little income that way. I graduated law
16 school December of '89 and I started working for them
17 like two days after I took my last finals.

18 Q And you joined the Rose Firm full-time in
19 1990?

20 A Well, I was actually paid as a lawyer --
21 they pay us to study for the bar exam, so I went on,
22 you know, earning a lawyer's salary as soon as I

1 graduated from law school which was approximately,
2 you know, the middle of December of '89. And I took
3 the bar exam in February '90 and passed it and got
4 the results in March of '90 and that's when I became
5 licensed.

6 Q Okay. When did you leave the Rose Firm?

7 A In June 1994.

8 Q And did you leave it to assume your current
9 employment?

10 A Yes.

11 Q Okay. So just tell us what you're doing
12 right now?

13 A I am the deputy city attorney for the city
14 of Little Rock.

15 Q Okay. That's enough background. I want to
16 direct your attention to the period 1987 when you
17 were at Madison and were a collections officer.

18 Do you remember a lawsuit titled Madison
19 Guaranty Savings & Loan versus Dixie Continental
20 Leasing?

21 A Yes.

22 Q Can you tell me what you remember about

10

1 what the lawsuit was about?

2 A Sure. And I don't remember a lot of
3 details about it. I know that it was a loan
4 involving Charles Peacock, III. I know that it was
5 real delinquent, I don't know how far, but it was bad
6 enough that it needed to be foreclosed. So I sent
7 that file to the Mitchell law firm, and that's pretty
8 much what I remember about the loan. I don't
9 remember what kind of property or anything secured
10 the loan or the amount of the loan.

11 Q So Mitchell, Williams handled the case on
12 behalf of Madison to recover upon the delinquent
13 note?

14 A Yes, sir.

15 Q Do you remember what or which attorneys at
16 the Mitchell, Williams firm handled the case?

17 A I believe it was Marcella Taylor.

18 Q And she's also known as Marcy Taylor;
19 right?

20 A Right, yes.

21 Q Do you remember who handled the case for
22 Dixie Continental Leasing or Charles Peacock?

1 A Yes. Greg Hopkins and another lawyer in
2 his firm named Karen Queen.

3 Q And tell us if you would who Charles
4 Peacock is or was as of 1987?

5 A I'm not exactly sure -- I believe -- I'm
6 pretty sure he was a stockholder of Madison, and he
7 may have been on the board of directors. I'm just
8 not totally certain anymore. It's been, you know,
9 several years back. He had numerous loans at
10 Madison, you know, and I was well acquainted with
11 them. That's about all I can tell you.

12 Q Do you remember what sort of relationship
13 Mr. Peacock had with Jim McDougal?

14 A Just I can only say, you know, my personal
15 observation of them. I don't know any details about
16 their business dealings. You know, they seemed to
17 have a cordial relationship.

18 Q Now, we have documents indicating that the
19 Dixie Continental suit was filed on March 12th,
20 1987. Does that sound right to you?

21 A Probably. I really don't remember, but
22 that probably is.

12

1 Q Do you remember attending the deposition of
2 Charles Peacock in that case?

3 A Yes, I sure do.

4 Q Okay. Well, I'll just tell you that the
5 copy of the deposition I have indicates that it was
6 taken on April 15th, 1987. Does that sound right to
7 you?

8 A That sounds right. That was the date I was
9 grasping for this morning to try to put some things
10 into context, so I'm glad you've given it to me.

11 Q Can you tell me why you were at the
12 deposition?

13 A Yes. Just as a representative from
14 Madison. I mean, my job was a collection officer and
15 to make sure that Madison got its money back, and I
16 just considered that part of my duties to be involved
17 in the litigation. And also sometimes, you know, I
18 find it -- it's in my practice now -- your client
19 knows more than you do when you're the lawyer and
20 they can kind of pass you notes and help you with
21 some information that you may not be aware of.

22 Q Is it safe to say that you were the

1 principal person at Madison involved in the Dixie
2 Continental case?

3 A From my perspective I was. I don't know if
4 anyone else thought differently but, I mean, I
5 believe I was.

6 Q To your knowledge, you would have been the
7 person that the Mitchell, Williams attorneys dealt
8 with?

9 A That's correct.

10 Q Okay.

11 A And that's not to say they might have had
12 some discussions with Steven Cuffman or something.
13 He was also a lawyer and they may have discussed
14 things with him, but as a general rule I believe I
15 had the conversations with them.

16 Q Now you said that the Dixie Continental
17 case was being handled by Greg Hopkins. Did you know
18 Mr. Hopkins prior to that lawsuit?

19 A Yes, I did.

20 Q Okay. Please tell me what you knew about
21 him?

22 A Well, actually the way I became acquainted

1 with him was I was handling some other, you know,
2 people. People will tend to file bankruptcy on you
3 and we've had some bankruptcy matters that I thought
4 our legal counsel should get involved in, and I had
5 referred those to Steven Cuffman.

6 And I don't remember if he was too busy or
7 something, I don't really recall the reason, but he
8 asked -- he said I know another lawyer that's very
9 knowledgeable about bankruptcy, and would you
10 consider letting him handle it. And I, of course,
11 took Steven's advice and the lawyer was Greg
12 Hopkins. So Greg had actually been Madison's lawyer,
13 if you will, on these bankruptcy -- at least one that
14 I recall, maybe more than one bankruptcy matter.

15 Q I'll see if I can help your memory out a
16 little bit. We have a set of what I believe are the
17 daily notes that you used to take in 1985. Let me
18 just set the background here. When you worked at
19 Madison, it was your practice to keep notes on
20 virtually a daily basis; right, sort of daily notes?

21 A Daily notes.

22 Q Okay. And obviously, since you're not

1 physically present here, you can't identify them for
2 me. But let's proceed on the assumption that what
3 I'm about to read to you is in fact your notes, and I
4 have a page of notes dated 9/17/85. So that's
5 September of '85. And it says "Greg Hopkins --
6 replevin -- Skagg," and then below it it says "RPM."
7 Does that notation about "Greg Hopkins -- replevin --
8 Skagg, RPM" refresh your memory about what
9 involvement you may have had with Mr. Hopkins in
10 1985?

11 A Could you give me -- Greg Hopkins, what was
12 the -- what was after that?

13 Q I'll start over and go slowly. And the
14 reason --

15 A I need to write it down to see if it makes
16 any sense to me. I've seen those notes a lot. I've
17 been interviewed by everybody and their brother, and
18 a lot of them are real cryptic to me now, some of the
19 abbreviations I used. So I'll try to figure it out
20 if I can, if you'll give it to me once more.

21 Q Just so you know, the reason -- I wasn't
22 trying to spring this on you, but the documents that

16

1 I faxed to you have been publicly released by the
2 House of Representatives. These notes have not been
3 publicly released, and so our confidentiality
4 procedures precluded me from sharing them with you
5 ahead of time.

6 But what these notes, what the notes say
7 again, it says "Greg Hopkins," then there's a dash,
8 then there's a word that appears to be "replevin,"
9 then there's another dash and the word "Skagg." That
10 appears to be a name. The S is capitalized.
11 S-k-a-g-g.

12 A S-k-a-g-g?

13 Q Yes, that's how I read it. And then below
14 that notation there are three capital letters "RPM."
15 Does that make any sense to you?

16 A Not a bit. I don't -- maybe if I saw it,
17 but I have just written it down, and I have no idea
18 what that means.

19 MR. BELEW: Chris, did you say that was in
20 April of '85?

21 MR. BARTOLOMUCCI: September. The notes
22 are dated 9/17/85.

1 BY MR. BARTOLOMUCCI:

2 Q Just for the record, this is a document
3 identified as IN 310.

4 That's okay that you don't remember this.
5 Does 1985 sound like the right time frame when you
6 had some prior involvement with Hopkins?

7 A Probably. I really don't remember for
8 sure. It was '85 or '86.

9 Q Okay. But it was your testimony that
10 Hopkins had in fact done some work for Madison on
11 bankruptcy matters?

12 A Yes.

13 Q And this is prior to the Dixie Continental
14 Leasing case?

15 A That's right.

16 Q Is that in connection with these bankruptcy
17 matters, was that the extent of your involvement with
18 him?

19 A To the best of my recollection, I believe
20 so.

21 Q Did you have occasion to talk to him in
22 connection with those bankruptcy matters?

1 A Yes, it was a fairly complicated thing
2 because the debtor had, in my opinion, falsified
3 everything. She'd taken out a big loan and listed
4 all these assets and filed bankruptcy shortly
5 thereafter and she didn't have any of them on her
6 bankruptcy schedules. And I thought there was some
7 fraud. And I hired, well, Steven and eventually
8 Greg. And I remember that he went -- I think Steven
9 Cuffman, went to the first meeting of creditors, and
10 made the woman cry and everything.

11 And then it got set for a trial and I
12 remember attending the trial with Greg. And I seem
13 to recall that we got a good result from that and
14 perhaps the bankruptcy was dismissed, but I'm not 100
15 percent certain about that. But that was, it was a
16 fairly complicated matter. We took depositions and
17 all kinds of stuff in it.

18 Q As an outgrowth of that matter, did you
19 form an opinion about Mr. Hopkins?

20 A In regard to what? I mean, his legal
21 ability or --

22 Q Yeah, let's start with that.

1 A I felt that he was very knowledgeable about
2 the matter he was handling.

3 Q Okay. Would you say that you became
4 friends with him subsequent to that involvement?

5 A In a sense. I mean, I still know him.
6 Little Rock is a small town. I see him in
7 restaurants and wave at him, you know, across the
8 room. Yeah, in a sense we were friends, sure. He
9 wrote a letter for me when I took the bar exam. You
10 have to get so many lawyers to write letters for you,
11 and he did that. So yes.

12 Q Okay. Moving to sort of the heart of the
13 matter, do you remember a time during the course of
14 the Dixie Continental lawsuit when you received a
15 phone call from Mr. Hopkins?

16 A I received a personal visit from him.

17 Q He came to see you at some point during the
18 course of the Dixie Continental Leasing case?

19 A Are you talking about Lance's memo, the
20 statement in that memo?

21 Q That's what I'm getting to, yes.

22 A He came in person to give me this

20

1 information. He did not phone me with it.

2 Q Just so that we get this clear for the
3 record, Greg Hopkins came to see you during the time
4 that the Dixie Continental Leasing case was ongoing.
5 Do you remember if that was in April of '87?

6 A Based on the documents that you've provided
7 me, I believe it was, yes.

8 Q And based on those documents, do you think
9 it was probably April 21st -- well, let me put it
10 this way, do you have any reason to doubt that the
11 conversation, the meeting took place on April 21st?

12 A No, I don't, but I don't have any
13 independent recollection of the exact date. And, you
14 know, I have no reason to disagree with the
15 documents. They appear to be accurate.

16 Q Why did Mr. Hopkins come to see you?

17 A I don't remember that exactly. I don't
18 know if he came just to shout at me or if he just
19 happened to be in the building and then, you know,
20 popped into my office, so I don't know.

21 Q Should I correctly infer from that that he
22 came in and shouted at you?

1 A He was quite angry, yes. I do know Greg to
2 have a temper, so he was angry, yes.

3 Q Do you remember whether this was, what time
4 of day this was?

5 A I think in the afternoon.

6 Q Okay. And before we refer to the
7 documents, what is your memory of what he said to
8 you?

9 A I'll tell you, let me tell you first that
10 my memory has been refreshed by the documents because
11 I had really totally forgotten it, about the whole
12 thing, until the special counsel's office called me
13 and started asking me some questions. And it sort of
14 jogged me memory about it, but I really had put it
15 out of my mind.

16 But what I remember is Greg coming into my
17 office very angry, shouting and saying that he was
18 upset that Jim McDougal was supposed to take care of
19 Charles Peacock, that obviously wasn't going to
20 happen anymore. That he was -- he was real mad at
21 the Mitchell firm for reasons -- it's kind of hard to
22 explain, but because of some things that had

1 transpired during the course of the litigation and,
2 you know, some things, there were some kind of hard
3 feelings.

4 And so he made some disparaging remarks
5 about the Mitchell firm, that they weren't interested
6 in results, they just wanted to make money and churn
7 the files and bill all they could. And that the
8 people that used to be at Madison that had been
9 ousted were going to go to prison and, you know, bad
10 things were going to happen all around. And that's
11 pretty much what I remember.

12 Q Subsequent to the visit by Mr. Hopkins, did
13 you telephone Lance Miller?

14 A I think I probably picked up the phone the
15 moment he walked out my door.

16 Q And called Mr. Miller? Ms. Hays, the
17 moment after Mr. Hopkins went out your door, you
18 picked up the phone and called Lance Miller; is that
19 right?

20 A That's what I think. Like I say, I can't
21 tell you exactly. I feel like I would have called
22 him immediately. Now whether I reached him at that

1 time or not, I don't remember, but I feel like I
2 discussed this with him almost immediately after it
3 happened.

4 Q Now --

5 A I mean, I'm trying to tell you to the best
6 of my recollection, and it was a number of years ago,
7 but that's what I think happened.

8 Q Right. And we appreciate you giving us
9 your best recollection.

10 You called Lance Miller because he was an
11 attorney at the Mitchell, Williams firm?

12 A Yeah. Lance was a new attorney at the
13 time, and he was probably my age. I may have been a
14 year or two older than him. And I felt real
15 comfortable talking to him. He had worked on the
16 Peacock bankruptcy matter where Mr. Charles Peacock
17 had filed bankruptcy, and I'd had Lance handle that
18 for Madison. And it was because of some things that
19 happened in that litigation that I thought Greg was
20 so mad, and I believe for those, kind of combination
21 of those reasons that I called Lance instead of Marcy
22 Taylor or someone else.

1 Q In fact, the Peacock bankruptcy petition
2 had been dismissed shortly before this Hopkins visit;
3 right?

4 A That's right. And, you know, there were
5 some real hard feelings over some things that
6 happened at that hearing. I attended that with Lance
7 also.

8 Q Well, as you obviously know by now,
9 Mr. Miller took some notes and then prepared a memo
10 about what you told him of the visit by Mr. Hopkins.
11 So I'd like to sort of run through them in a
12 systematic way and --

13 A Could I say first that I didn't know that
14 Lance ever wrote a memo. The first I ever heard of
15 the memo was, you know, sometime within the last six
16 to nine months when the special counsel's office told
17 me there was a memo. And they would not show it to
18 me. They just told me that there was one, and
19 yeah -- no, I actually saw it for the first time when
20 a reporter brought it to my house and asked me
21 questions about it. But he wouldn't leave a copy
22 with me, he took it.

1 Q When did a reporter come to see you?

2 A I don't know exactly when. Let me think a
3 second. There was an article in the newspaper a
4 week -- if we could find it, I guess.

5 Q I think some articles appeared about this
6 subject in late July 1995, if memory serves. Does
7 that help?

8 A You know, I'm thinking of something, I kind
9 of, I have a kind of a weird memory. I can remember
10 lots of strange things that I wish I didn't
11 remember. I think that's exactly right. That was in
12 July of '95.

13 Q And just one reporter came to see you and
14 showed you the memo?

15 A Yes, sir.

16 Q Okay. Other than this reporter and the
17 independent counsel and other than me, has anyone
18 else ever contacted you to discuss these memos?

19 A No.

20 Q Okay. So Lance Miller never showed you,
21 never showed you the memos?

22 A No, I didn't know he had written them.

1 Q Okay. Well, even with that being the case,
2 I just want to run through what's contained in them
3 and see if you can confirm or expand upon the
4 substance of them.

5 Okay let's start with the typewritten memo,
6 the three-page memo dated April 23rd, '87 from LM to
7 JSS.

8 A Yes, sir.

9 Q And it bears an identifying mark
10 Fundraiser 18.

11 It starts out, do you see the first
12 paragraph?

13 A Yes, sir.

14 Q It says basically "the Mitchell, Williams
15 firm represents Madison in several collection matters
16 related to Peacock and we have been dealing primarily
17 with Pat Heritage, a loan and collection officer at
18 Madison." Everything in that paragraph is accurate
19 isn't it?

20 A I wasn't ever a loan officer.

21 Q Just a collection officer?

22 A Just a collection officer. Probably should

1 have said loan, collection officer.

2 Q The rest of the paragraph is accurate?

3 A Yes.

4 Q And second paragraph, first sentence says

5 "On Tuesday April 21st, '87, Ms. Pat Heritage
6 informed me that she had spoken with Greg Hopkins,
7 attorney for the Peacocks." That's consistent with
8 your memory isn't it?

9 A Yes. Although I don't -- as I said, I
10 don't recall the exact date, but I believe this to be
11 accurate.

12 Q That paragraph goes on "Mr. Hopkins
13 informed Ms. Heritage that there was a move under way
14 to have our firm disqualified from representing
15 Madison. The basis of the disqualification is that
16 Jim Guy Tucker has substantial involvement with
17 Madison and with Mr. McDougal and that this creates a
18 conflict and therefore our firm should be
19 disqualified."

20 Does that to the best of your recollection
21 accurately reflect the substance of what Mr. Hopkins
22 said to you?

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1 A Yes. And can I say I know Lance Miller
2 pretty well. I mean, at that time I had gotten to
3 know him pretty well, and he's extremely honest. I
4 just don't think he would have written down
5 something. I mean, the fact that I don't recall it
6 in very good detail, parts of it, is no reflection on
7 what Mr. Miller put here, because I know him to be
8 very honest and I just don't think he made any of it
9 up.

10 Q Oh, and we don't either. And we've talked
11 to Mr. Miller about the memo but, you know, obviously
12 since he was getting this information from you, we
13 want to see what you remember about it.

14 MR. PORTNOY: If we could, Ms. Hays, the
15 issue isn't necessarily whether Mr. Miller is honest
16 or truthful. It's just whether what he wrote
17 comports with what you recall telling him. There are
18 any number of reasons why that may or may not be the
19 case.

20 BY MR. BARTOLOMUCCI:

21 Q Let's go on --

22 MR. BELEW: Pardon me. Was that Jim

1 talking at that moment?

2 MR. PORTNOY: It was, sir.

3 MR. BARTOLOMUCCI: That was.

4 THE WITNESS: I just want to make sure you
5 understand, I don't remember every little detail that
6 Lance has in the memo, but I remember in general
7 about it, about the entire discussion, and I don't
8 have any reason to think that Lance put anything in
9 here that I didn't tell him. That's all I'm trying
10 to say.

11 BY MR. BARTOLOMUCCI:

12 Q Okay. Before we continue going line by
13 line then, let me ask you generally, you've had a
14 chance to review this memorandum; right?

15 A Yes.

16 Q And in general it comports with your memory
17 of the conversation with Mr. Hopkins?

18 A Yes, it does.

19 Q Is there anything in the -- other than the
20 attribution to you as being a loan officer, is there
21 anything in the memo that you believe is inaccurate?

22 A No.

30

1 Q And you have no reason to doubt that
2 Mr. Miller did an accurate job of recording what you
3 told him? Did you hear that question?

4 A Yes. I said I had no doubt whatsoever that
5 he had done an accurate job of recording what I had
6 told him.

7 Q We didn't get your response over the phone
8 line. We may have been rustling around a little bit
9 too much.

10 So referring back to that second paragraph,
11 it talks about disqualification, the memo says that
12 there was a move under way, would that have been a
13 move that Greg Hopkins said he was taking?

14 A I believe that's what that means, yes.

15 Q So basically he was saying, he was saying
16 I'm going to have the Mitchell, Williams firm
17 disqualified from representing Madison?

18 A Right.

19 Q And that was because of Jim Guy Tucker's
20 involvement with Madison and McDougal? I'm sorry
21 Ms. Hays, did you answer that question?

22 A Yes, I said correct.

1 MR. BELEW: She's answering, Chris. I
2 don't know why the phone's not getting it to you.

3 MR. BARTOLOMUCCI: Okay, we're going to try
4 to be more careful about not knocking too many papers
5 around. We've used this system in the past and it's
6 worked pretty well, but every once in a while we miss
7 something.

8 BY MR. BARTOLOMUCCI:

9 Q I don't think prior to these couple of
10 occasions we've just had, that we've had a problem
11 hearing you.

12 A Okay.

13 Q So your answer was yes, that the basis for
14 the threatened disqualification was going to be the
15 Tucker's involvement with McDougal and Madison?

16 A That's right.

17 Q What do you know about Jim Guy Tucker's
18 involvement with Madison and McDougal?

19 A I know that there were several loans that
20 Mr. Tucker had at Madison, one of which was in a
21 partnership with Mr. McDougal and someone named
22 Smith, and that some of the loans that Mr. Tucker had

1 involved is a cable television company.

2 And I know one project John Latham used to
3 give me a lot when I was his administrative assistant
4 was keeping him up to date on past due loans. And he
5 would every so often have me make a list of who was
6 past due and how many days and all that sort of
7 thing. And I know that Mr. Tucker's name was on that
8 list on several occasions. Does that answer your
9 question?

10 Q It does. And so basically Tucker had taken
11 out some loans from Madison, that was part of the
12 involvement?

13 A Right.

14 Q And are you aware of any business dealings
15 between Tucker and Jim McDougal?

16 A Other than the loan -- I mean, they had a
17 Tucker, Smith, McDougal, or I'm not sure which order
18 the names were in, partnership loan that was on the
19 books. I mean, other than that I'm not really aware
20 of anything.

21 MR. PORTNOY: Can we just ask the witness
22 to be clear about when she knew certain information

1 and what she may have learned subsequently.

2 BY MR. BARTOLOMUCCI:

3 Q Okay. Ms. Hays, this information that
4 you're conveying to me about your knowledge of the
5 involvement between Tucker and McDougal and
6 Madison --

7 A Yes.

8 Q -- that's knowledge you had in 1987?

9 A Yes, sir.

10 Q Okay.

11 A Those were loans on the books of Madison,
12 and every day I would get a loan trial balance and it
13 would show how many days past due each loan was. And
14 those loans are recorded there and I made a list of
15 the delinquent loans off of that loan trial balance.

16 Q So when you heard Mr. Hopkins say this,
17 that I'm going to get your firm disqualified because
18 of Tucker's involvement, did you think to yourself
19 yeah, Jim Guy Tucker does have a lot of involvement
20 with McDougal and Madison?

21 A I don't recall that I thought that. I knew
22 that he had some loans there, but I don't remember

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1 thinking that that would be something that would
2 disqualify him. I mean, a number of people had loans
3 at Madison that, you know -- did work for Madison, so
4 I don't think that really concerned me in particular.

5 Q Did you wonder how Greg Hopkins knew about
6 this involvement?

7 A Yes, I did, and, you know, I'll just wait
8 until you ask questions, I'm sorry. Go ahead.

9 Q Could you think of any reason why he would
10 have known about it?

11 A Just that someone told him, I guess.

12 Q Did you know that Mr. Hopkins -- let me
13 strike that and start over.

14 To your knowledge, did Mr. Hopkins ever
15 attend Madison Guaranty board meetings?

16 A I don't remember that. He could have. I
17 didn't attend board meetings, so I don't really know
18 who was in attendance.

19 Q Well, I'll just tell you, I don't know if
20 this is going to help you or not, but we have some
21 minutes dated July 15th, 1986 which reflect that Greg
22 Hopkins was present, and he was there as an attorney

1 for Chuck Peacock. And those minutes also indicate
2 that one of the subjects of discussion at the meeting
3 was Jim Guy Tucker's business involvement with
4 McDougal. Does that ring a bell with you at all?

5 A No, I don't know anything about that. I'm
6 sorry.

7 Q Okay. Let's go on to the third paragraph
8 on the first page of the Miller memo. "Mr. Hopkins
9 went on to explain that there was substantial
10 wrongdoing regarding the prior administration of
11 Madison, that several people were going to prison,
12 and that our firm will be severely embarrassed when a
13 full disclosure is made and our firm is disqualified
14 with potential sanctions being imposed."

15 Is that something that he said?

16 A I definitely remember him saying that
17 people were going to go to prison. And I guess he
18 was pretty insightful back then.

19 Q To your recollection, why were people going
20 to go to prison according to Mr. Hopkins?

21 A I don't know that he gave any specifics
22 about why. I mean, frankly, in my own mind I didn't

1 have any reason to doubt that. I felt that there was
2 a strong possibility that that would happen also.

3 Q Why did you think there was a strong
4 possibility that people were going to go to prison?

5 A I'm not sure how to answer that. McDougals
6 had been ousted essentially because what they were
7 doing was committing bank fraud, and I felt like that
8 was a criminal offense that could result in
9 imprisonment if they were convicted of it.

10 Q So when this references "the prior
11 administration of Madison," you understood at the
12 time of the conversation that Hopkins was talking
13 about the McDougal era?

14 A That's correct. McDougals and Latham and,
15 you know, others associated with the institution at
16 that time.

17 Q So it didn't really come as a great
18 surprise to you, then, to hear that, that people
19 might be going to jail because of what McDougal had
20 been doing at Madison?

21 A I mean, it wasn't really a surprise.
22 People talked about it a lot.

1 Q Okay. The next sentence in that same
2 paragraph says "Mr. Hopkins also stated that the
3 matters regarding the Peacocks and Madison was
4 getting too dirty and he has considered resigning his
5 representation of the Peacocks."

6 Do you remember him saying something like
7 that?

8 A Not really. It's very possible he said it,
9 but I don't really recollect that.

10 Q You don't remember him saying his
11 representation was getting too dirty?

12 A I don't remember it. It's very possible
13 that he said it, but I really can't -- I've racked my
14 brain on that one and I just don't remember it.
15 Although that would probably be a real accurate
16 description of it, and so it's, you know, very likely
17 that he did say it.

18 Q Why would that be an accurate description?

19 A I think what this is referring to is the
20 relationship between the Mitchell firm and Greg
21 Hopkins, that it was getting dirty. It was getting
22 acrimonious. It was becoming personal.

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1 Q I understand. The -- you still there?

2 A Yes, sir.

3 Q I just heard a noise. The next paragraph,
4 we're on the second page here, talks about Hopkins
5 allegation that the Mitchell, Williams firm was
6 churning the files.

7 A Yes.

8 Q What did you understand him to mean when he
9 said that the firm was churning the files?

10 A That they were doing unnecessary work or
11 billing Madison for things that they didn't really
12 need to be doing.

13 Q Now, in the next paragraph, first sentence
14 says, I'm paraphrasing here, Hopkins told you that
15 the Dixie Continental loan upon which Marcy Taylor
16 has undertaken foreclosure proceedings involves
17 fraudulent transactions.

18 Now the first part of that is true, isn't
19 it, that Marcy Taylor had undertaken foreclosure on
20 the loan?

21 A I think that's right, yes.

22 Q Okay. The next sentence says "Mr. Hopkins

1 stated that a portion of the loan proceeds made to
2 Dixie Continental leasing went to Bill Clinton's
3 campaign." I'm going to stop there midway through
4 the sentence.

5 Do you remember Hopkins telling you that
6 some of the loan proceeds from Dixie Continental
7 Leasing went to Bill Clinton's campaign.

8 MR. BELEW: Chris.

9 MR. BARTOLOMUCCI: Yes.

10 MR. BELEW: I'm going to get Pat some
11 water, hold on a second.

12 MR. BARTOLOMUCCI: Let me ask you this, did
13 she answer that question?

14 THE WITNESS: Yes, I answered it a strong
15 yes.

16 MR. BARTOLOMUCCI: Okay. We --

17 THE WITNESS: If you want to ask it again.

18 MR. BARTOLOMUCCI: We didn't get it. Do
19 you want to take a little break while your counsel
20 gets you some water?

21 THE WITNESS: If you wait just a second he
22 just has to step across the hall.

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1 (Recess.)

2 BY MR. BARTOLOMUCCI:

3 Q We're back on the record. And we're
4 looking at the Lance Miller memo and the second page
5 where it says "Mr. Hopkins stated that a portion of
6 the loan proceeds made to Dixie Continental Leasing
7 went to Bill Clinton's campaign."

8 Ms. Hays, did Mr. Hopkins say that to you?

9 A Yes, he did.

10 Q And your memory is very clear on that
11 point?

12 A Yes.

13 Q And you, of course, understood Bill Clinton
14 at that time to be the sitting governor of the state?

15 A That's right.

16 Q What was your reaction when you heard that?

17 A At this point, nothing surprised me, so it
18 was just more information received. Sort of had to
19 be here to understand, but a lot of things had been
20 coming out about things that Mr. McDougal had done.
21 And this was just one more thing, and so I can't
22 recall that it surprised me particularly or anything.

1 Q You were prepared to believe that it was
2 true?

3 A Yes.

4 Q I mean, this wasn't like an Elvis sighting?

5 A No. I mean, I didn't know that it was
6 true, but I thought that it could be. And as I said,
7 Mr. Hopkins was real angry when he was saying these
8 things, and sometimes people will tend to give you
9 their true feelings when they're angry.

10 MR. BELEW: Chris, you know I don't have
11 any problem with Pat stating her observations, but --
12 and I know these hearings are not intended to adhere
13 strictly to rules of evidence, but sitting here as a
14 lawyer, this is a little bit like a discovery
15 deposition, I suppose. So that's just a comment, not
16 anything else.

17 MR. BARTOLOMUCCI: You are certainly
18 correct that we're not adhering to any particular
19 rules of evidence, and I think certainly in a
20 deposition like this anything goes. We want Pat's
21 best recollection of, you know, what she heard, what
22 she was thinking, and so I don't think there is any

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1 particular limitation as to what she can testify to.

2 MR. BELEW: I understand that.

3 BY MR. BARTOLOMUCCI:

4 Q Now, Ms. Hays, in 1987 what did you know
5 about Bill Clinton's relationship to Jim McDougal?

6 A I believe I knew that they had the
7 Whitewater loan. I knew that, you know, that there
8 was contact on occasion between Governor Clinton and
9 Mr. McDougal, but I don't know the substance of any
10 of those contacts.

11 Q And you knew about this because from 1985
12 to 1987 you were a Madison Guaranty employee?

13 A Right. And there was one period of a week
14 or so when Mr. McDougal's secretary was gone, and he
15 asked me to sit where she normally did just outside
16 his office and catch his phone calls for him. And I
17 believe I probably took a message or two for him to
18 call the governor. I don't know what about. I just
19 wrote down the name and number.

20 Q So just so I have this right, there was
21 about a week of time when you were substituting for
22 McDougal's secretary?

1 A Yes.

2 Q And would that have been Sue Strayhorn?

3 A Yes.

4 Q And during that time you took phone
5 messages for Mr. McDougal?

6 A Yes, sir.

7 Q And a couple of calls came in from the
8 governor's office?

9 A That's correct.

10 MR. BELEW: Did you say that it was a
11 couple or that it was one or two?

12 THE WITNESS: I can't really quantify it.
13 Let me say it was at least one and maybe more than
14 one, but not -- I wouldn't think more than two. Just
15 one or two.

16 BY MR. BARTOLOMUCCI:

17 Q Okay. One or two.

18 A I'm sorry, I can't be more exact than that.

19 Q Did you ever see Governor Clinton at
20 Madison Guaranty?

21 A Not that I remember, no.

22 Q Did you ever see Governor Clinton with Jim

1 McDougal anywhere else?

2 A No.

3 Q Based upon your employment at Madison
4 Guaranty, are you aware of any other contacts,
5 communications or conversations between Bill Clinton
6 and Jim McDougal?

7 Ms. Hays, did you answer that?

8 A Yes, I said no, sir.

9 Q Okay. We missed your answer. So just so
10 we have this clear, other than those one or two phone
11 messages that you took, that's the extent of your
12 knowledge about contacts or conversations between
13 then-Governor Clinton and James McDougal?

14 A May I talk to my lawyer for just a moment?

15 MR. BARTOLOMUCCI: Absolutely.

16 THE WITNESS: I think if I hit this one
17 button.

18 MR. BELEW: Don't do that. We'll just step
19 out in the hall. We'll be right back, Chris.

20 (Witness conferred with counsel.)

21 MR. BELEW: Okay, Chris.

22 MR. BARTOLOMUCCI: Yes.

1 MR. BELEW: The reason we stepped out a
2 moment, the question you asked did not exactly step
3 on the predicate of a thought that Pat has. But if
4 you will let her explain, it's not about Governor
5 Clinton, but about the Clintons, plural.

6 MR. BARTOLOMUCCI: That's fine, she should
7 give, you know, she can go ahead and testify.

8 MR. BELEW: Go ahead.

9 THE WITNESS: That just when you asked me
10 did I know of any other kinds of contacts, the only
11 thing that I know anything about is the retainer that
12 Madison was paying to the Rose Firm. And because the
13 legal things were sort of my bailiwick, if you will,
14 I got a little concerned about why we were paying
15 \$2000 a month because I knew I was the one referring
16 out the legal work and I wasn't referring it there.
17 And I went to John Latham and asked him why are we
18 doing this, and he said that's Jim's deal, just do it
19 so after Jim was gone we just continued it.

20 BY MR. BARTOLOMUCCI:

21 Q What is your memory about when Madison
22 started paying this retainer?

1 A I don't know that. I think it may have
2 even been before I came. I'm really not sure.

3 Q Okay. But you're saying that there came a
4 time when you learned that the, that Madison was
5 paying the Rose Law Firm \$2000 a month as a retainer?

6 A Yes. I knew that. I mean, I had had some
7 contacts with Rick Massey on some other matters for
8 John Latham, and so at that time they were doing some
9 things for it, and I didn't think anything about it.
10 It was just later when I knew that we weren't using
11 them for anything that I was just curious more than
12 anything, you know, why do we keep sending this
13 money.

14 Q And you were curious because you were
15 sending legal work out to other law firms while at
16 the same time paying \$2000 a month on retainer to the
17 Rose Firm yet not using them?

18 A Yes, sir.

19 Q And what John Latham said to you was that's
20 Jim's deal just do it?

21 A That's right. That's what he told me.

22 Q Did he say anything about Hillary Clinton?

- 1 A At that time or ever?
- 2 Q Well, let's start with at that time and --
- 3 let's just start with at that time?
- 4 A I don't really remember anything
- 5 specifically that he said about Mrs. Clinton.
- 6 Q Do you recall having any other
- 7 conversations while you were at Madison about this
- 8 retainer?
- 9 A Conversations with who?
- 10 Q With anyone?
- 11 A Greg Young, I talked with Greg. You know
- 12 who Greg Young is, I guess.
- 13 Q Yes.
- 14 A I spoke with him about it. I think he's
- 15 the one -- probably he may have even brought it to my
- 16 attention that we were spending the \$2000, and
- 17 probably may have encouraged me to ask John Latham
- 18 about it.
- 19 Q So that conversation would have been you
- 20 think before the one with John Latham?
- 21 A Yeah, pretty -- right before it, you know,
- 22 within a day or so.

- 1 Q After Latham told you that it's McDougal's
- 2 deal, did you have anymore conversations about the
- 3 retainer?
- 4 A No.
- 5 Q Did it continue to be the case that it was
- 6 being paid yet the Rose Firm wasn't doing legal work
- 7 for Madison?
- 8 A I know that it continued to be paid, yes.
- 9 And I know that I was not sending any legal work
- 10 there.
- 11 Q While you were at Madison, did you gain an
- 12 understanding of how the retainer agreement came
- 13 about other than that it was McDougal's deal?
- 14 A That is the extent of my knowledge right
- 15 there. Just what John told me that one day. I don't
- 16 know anything else about it.
- 17 Q Okay. I think you may have implied in an
- 18 earlier statement that on some other occasion Latham
- 19 said something about Hillary Clinton?
- 20 A Can I talk to my lawyer again?
- 21 MR. BARTOLOMUCCI: Of course.
- 22 THE WITNESS: Sorry.

1 (Witness conferred with counsel.)

2 MR. BELEW: Chris, these questions are
3 prompting thoughts that may be collateral to what
4 you're asking, but yet they're still popping through
5 Pat's brain, so I guess the best way to deal with it
6 is just let her tell you what she was thinking in
7 regard to the Hillary Clinton question.

8 MR. BARTOLOMUCCI: I agree. I mean, we're
9 trying to find the full facts about Madison
10 Guaranty. So any information that she has to impart
11 about Madison Guaranty is, you know, within the scope
12 of our inquiry. So if Ms. Hays has some thought that
13 maybe isn't precisely within the question I asked,
14 she should feel free to give a full and complete
15 answer.

16 THE WITNESS: I'm not sure how helpful this
17 is, and let me say that I don't have independent
18 recollection of this conversation, but I have seen a
19 memo. So since I was the author of the memo I think
20 it was probably true.

21 At some point, I believe it was a memo I
22 may have written to Sarah Hawkins telling her John

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1 Selig -- according to John Latham, John Selig doesn't
2 need to represent us on some matter, I don't remember
3 what it was, before the Federal Home Loan Bank, that
4 John Latham was going to ask Hillary Clinton to do
5 it. And I have seen that memo. And it surprised me
6 because I really didn't ever remember Hillary's name
7 coming up at all ever when I worked at Madison. So,
8 you know, that's all I can tell you.

9 BY MR. BARTOLOMUCCI:

10 Q Okay. Just so I have this clear, this is a
11 memo that you apparently wrote and it was written to
12 John Selig of the Mitchell, Williams firm?

13 A No, I think it was written to Sarah Hawkins
14 at Madison, and I haven't seen it in a while, and I
15 don't have a copy of it so I don't remember. But I'm
16 thinking that Sarah, you know, was the compliance
17 officer, and she was trying to set up some kind of
18 meeting with the Dallas FHLBB. And I think maybe she
19 was wanting me to find out from John Latham did we
20 need to have John Selig represent us in the matter.
21 And when I questioned John Latham about it, he said
22 I'm going to ask Hillary Clinton to do it. And I

1 don't know whether he ever asked her to do it. You
2 know, I don't have any knowledge about that.

3 Q Do you remember what the date or year on
4 the memo was?

5 A I don't have any idea.

6 Q Is that your only memory from Madison of
7 any matter that involved Hillary Clinton?

8 A Yes, sir.

9 Q Okay. I want to back up a little bit on
10 the subject of McDougal's relationship with Governor
11 Clinton. I believe you told me that you were aware
12 that they had some business dealings; is that right?

13 A I knew about the Whitewater Development
14 Corporation.

15 Q In 1987 you knew about Whitewater
16 Development Corporation?

17 A Yes, sir. In '86, in '85.

18 Q And you knew about this because, again, you
19 were employed at Madison at the time?

20 A That's right.

21 Q What was your understanding about
22 Whitewater Development Corporation?

1 MR. BELEW: She has a cracker in her
2 mouth. One moment, please.

3 MR. BARTOLOMUCCI: We don't want any crumbs
4 on the record.

5 (Laughter.)

6 MR. BELEW: It's lunchtime, Chris.

7 MR. BARTOLOMUCCI: Now, don't you go trying
8 to make me hungry and shorten this.

9 THE WITNESS: I'm sorry. I had to have a
10 bite, and I thought your question was going to be
11 longer and I would have time to swallow, but --

12 BY MR. BARTOLOMUCCI:

13 Q Do you want me to reask the question?

14 A I think you asked me what did I know about
15 Whitewater?

16 Q Yes.

17 A Or was it how did I know?

18 Q What did you know about it?

19 A The only thing at all that I remember
20 knowing about it was the minutes that were written
21 from Madison Financial Corporation. You're aware of
22 those, I guess?

1 Q Sure.

2 A There was some money paid out of Madison
3 Financial Corporation directly to Whitewater on
4 behalf of Jim McDougal, and I knew about that. And I
5 think in conversations with Greg Young or John Latham
6 or somebody that I gained an understanding that the
7 Clintons were partners in that development.

8 Q Now, you're referring to the incident in
9 which \$30,000 I think described as a McDougal bonus,
10 was paid directly to the Whitewater account at
11 Madison?

12 A Yes, sir.

13 Q And you had some involvement in the
14 preparing of minutes about that?

15 A Yes.

16 Q Did you ask someone, you know, what is
17 Whitewater Development Corporation?

18 A I don't think so. I pretty much did what I
19 was told, and I was told to put that in the minutes,
20 and I did.

21 Q But at some point you learned that
22 Whitewater was a land development in which the

1 McDougals and the Clintons were partners, is that
2 accurate?

3 A Yes, I knew that, you know, from being at
4 Madison. I don't know if I knew that before the
5 minutes -- the entry in the minutes or after, but I
6 knew it while I worked there.

7 Q Would you have learned that from McDougal
8 or other people at Madison?

9 A Probably other people, but I don't remember
10 exactly.

11 Q Do you remember anything else about
12 Whitewater Development Corporation?

13 A That's it.

14 Q Now, when Greg Hopkins said that some of
15 the Dixie Continental loan proceeds went to the Bill
16 Clinton campaign, did you connect that in your mind
17 to Governor Clinton's business dealings with McDougal
18 or Madison?

19 A I don't believe so.

20 Q Now, you understood the Dixie Continental
21 loan to be a loan to Charles Peacock; right?

22 A That's correct.

1 Q And did you wonder why loan money to
2 Peacock might have gone to the Bill Clinton campaign?

3 A Sure I wondered, yes, I'm sure that's
4 probably why I called Lance Miller and told him all
5 this.

6 MR. BELEW: Chris, let me ask, how much was
7 that loan to Dixie Continental Leasing?

8 MR. BARTOLOMUCCI: I believe it was
9 \$297,000 if memory serves.

10 MR. PORTNOY: The record should show that
11 there are a large number of loans involving the
12 Peacocks and it's not at all clear from any of these
13 materials what loan Mr. Hopkins might have been
14 referring to.

15 MR. BELEW: Well, that was just my
16 curiosity.

17 MR. BARTOLOMUCCI: Actually, now since
18 Mr. Portnoy has said that, I better add my own
19 comments. I think there was only one Madison loan
20 around this time to Dixie Continental Leasing. There
21 were several Peacock entities. And I think that
22 there was only one loan to Dixie Continental Leasing

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1 upon which Marcy Taylor undertook foreclosure. And I
2 think that loan was for 297,000. The records will
3 speak for themselves, but since you asked, I just
4 thought I'd give you a complete picture of what I
5 understand about it.

6 MR. BELEW: That was my curiosity. Pat did
7 not remember the amount of the loan.

8 BY MR. BARTOLOMUCCI:

9 Q Ms. Hays, does 297,000 sound about right as
10 far as the size of the loan goes?

11 A I really don't have -- I just can't
12 remember what the size of the loan was. I don't have
13 any reason to disagree with your documents.

14 Q Do you remember it being a large loan?

15 A Yes, I remember it was a sizable loan.

16 Q Did you have any understanding as to what
17 the relationship between Charles Peacock and Bill
18 Clinton might be in 1987?

19 MR. PORTNOY: Or whether there was any
20 relationship.

21 THE WITNESS: No, I had no idea.

22 BY MR. BARTOLOMUCCI:

1 Q So when Mr. Hopkins said that some of the
2 Dixie Continental loan proceeds went to the Bill
3 Clinton campaign, did you connect that in your mind
4 to Jim McDougal?

5 A I don't remember. All I can tell you is I
6 remember Greg making the comment to me and I remember
7 thinking that it was entirely possible that it was
8 true, but I didn't know anymore about it than that.

9 Q Okay. Referring again to the memo, the
10 next part of that, that same sentence says "in return
11 for the substantial campaign contribution, Bill
12 Clinton assured Jim McDougal that a state agency
13 would lease space from Madison at its headquarters on
14 Main Street in Little Rock."

15 You see that passage?

16 A Yes, I do.

17 Q Does that accurately reflect what
18 Mr. Hopkins said to you?

19 A Yes.

20 Q And what was your reaction to that
21 statement?

22 A The same as all the others. You know, I

1 felt like there was a possibility they could be true,
2 but I didn't have any way of knowing.

3 Q So when we look at that whole sentence
4 together, and it talks first about the loan proceeds
5 to Dixie going to Bill Clinton, and then Bill Clinton
6 assuring that Jim McDougal would get, that a state
7 agency would lease space from Madison, he connected
8 that altogether, Mr. Hopkins did?

9 A Yes. And there was a state agency leasing
10 space from Madison, so I didn't find it totally out
11 of the realm of possibility.

12 Q So you are saying there was at the time
13 already?

14 A Yes.

15 Q Okay. Subsequent to -- all right. And
16 we're talking about 1987?

17 A Yes. I mean, there had been -- I believe I
18 could be mistaken, but at the time I went to work at
19 Madison in 1985, there was a state agency already
20 leasing space and they continued to do so.

21 Q Would that have been at the Madison
22 headquarters on Main Street or elsewhere?

1 A At the Madison headquarters on Main Street.

2 Q And do you know if this was the I think

3 it's called the Arkansas Development Finance

4 Authority or ADFA?

5 A It was ADFA, yes.

6 Q So ADFA at some point in 1985, ADFA was

7 leasing space from Madison's headquarters on Main

8 Street?

9 A Yes, sir. Could I speak to my lawyer
10 again?

11 MR. BARTOLOMUCCI: Of course.

12 (Witness conferred with counsel.)

13 MR. BELEW: Okay, Chris.

14 MR. BARTOLOMUCCI: You back?

15 MR. BELEW: Yes.

16 THE WITNESS: If I understand your question
17 about the state agency -- you are wanting to find out
18 if there was a relationship between Madison and the
19 state agencies.

20 MR. BARTOLOMUCCI: Right, leasing space.

21 THE WITNESS: Right. And what I wanted to
22 talk to my lawyer about, there was another --

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1 MR. BELEW: Transaction.

2 THE WITNESS: Transaction and -- but it

3 didn't -- it was kind of one step removed, but it

4 involved a state agency and Madison.

5 BY MR. BARTOLOMUCCI:

6 Q Why don't you go ahead and describe that
7 transaction.

8 A Davis Fitzhugh, I know that you know him,

9 he's testified up there, had bought an old building

10 directly across the street from Madison. And my

11 belief or understanding at the time was that

12 Mr. McDougal had asked him to buy that building. And

13 then that was subsequently leased and in fact today

14 it's still leased to the Arkansas Department of

15 Finance and Administration, which we also call

16 revenue department, where you get your driver's

17 license and car tags and that sort of thing.

18 Q Okay. But that would not be the Madison
19 headquarters on Main Street; right?

20 A Directly across the street from it, yes,
21 sir.

22 Q I'm not sure I understand your testimony.

1 Are you thinking, are you saying that is Madison's
2 headquarters or --

3 A No, Madison's headquarters is the corner of
4 15th and Main, on the left-hand side of the street.
5 In that building the ADFA agency leased space.

6 Then again at 15th and Main, but on the
7 right-hand side of the street, the revenue department
8 of the state of Arkansas leased a building from Davis
9 Fitzhugh that he bought through Madison.

10 Q Okay. Just so the record is clear, though,
11 ADFA, you were aware that ADFA had leased space from
12 Madison at its headquarters on Main Street?

13 A Yes. They were at that time leasing space.

14 Q So when Mr. Hopkins said this to you, that
15 Dixie loan money had gone to Bill Clinton and in
16 exchange Madison had gotten this lease contract, did
17 you think to yourself wow, that could be true,
18 Madison was leasing space to a state agency?

19 A I thought it could be true, but I didn't, I
20 wouldn't go as far as to say I thought wow.

21 I mean, you have to realize, you know, a
22 lot of things that went on at Madison after a while,

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1 not much surprises you, so I wouldn't say that it
2 particularly excited me.

3 Q All right. Referring down to the next
4 paragraph, this is the last paragraph on page 2 of
5 the memo.

6 A Yes.

7 Q It says "Mr. Hopkins further stated I
8 should have not said what I did in front of the
9 bankruptcy court at the hearing held on Wednesday,
10 April 8th, 1987"?

11 A Yes.

12 Q So am I right that Hopkins said that Lance
13 Miller shouldn't have said something in the
14 bankruptcy court hearing?

15 A That's what it means, yes.

16 Q What did Hopkins say that Miller should not
17 have said?

18 A That's kind of -- that sounds like a
19 question I would ask at a deposition.

20 Q I hope I got it right.

21 A It's kind of awkward. What Lance said at
22 the bankruptcy hearing that Greg would have rather he

1 didn't say was -- and I will tell you it was at my
2 urging that Mr. Miller said it to the court in the
3 first place. Not too long -- you know, and I can't
4 give you an exact time period, but somewhere from one
5 week to one month approximately before Mr. Peacock
6 filed his bankruptcy petition he took out a loan from
7 Madison I believe for \$10,000. That may not be the
8 correct amount.

9 It was my belief and I think I might have
10 had discussions with Greg Hopkins -- Greg Young and a
11 few others, that we believed that Mr. Peacock used
12 the money to pay Mr. Hopkins his attorney's fees for
13 filing that bankruptcy petition. And I had strongly
14 felt that that was inappropriate, and I asked Lance
15 to say something about it. And as you might assume,
16 Mr. Hopkins was extremely upset at the implication
17 that we were trying to make. And he denied it.
18 That, I assume, is on the record if you were able to
19 get the transcript of that hearing if it still
20 exists.

21 MR. PORTNOY: I'm sorry. When you said he
22 denied it?

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1 THE WITNESS: Greg Hopkins denied that that
2 had happened.

3 MR. PORTNOY: Denied that the funds from
4 the loan to Mr. Peacock had been used to pay his
5 legal fees?

6 THE WITNESS: That's correct.

7 MR. PORTNOY: Thank you.

8 BY MR. BARTOLOMUCCI:

9 Q Now, was this something that you had
10 firsthand knowledge about or was this something that
11 Lance Miller knew about?

12 A No, I knew about it and told Lance.

13 Q What was the basis for believing that
14 Peacock had used the loan money to pay Hopkins's
15 attorneys fees?

16 A I don't really -- I don't know. I think it
17 was strange that he borrowed the money and then so
18 soon thereafter filed bankruptcy. And, you know,
19 Greg Hopkins or any of us, I guess, don't generally
20 work for free, and we were foreclosing at least on
21 the Dixie loan and maybe others, I don't remember.
22 And Mr. Peacock didn't seem to have a lot of money

1 and I knew he had to pay his lawyer, so I don't know
2 if I went so far as to maybe try to trace the
3 proceeds of the loan check. I don't think that I did
4 that, but I still felt pretty sure that the money had
5 gone to Mr. Hopkins.

6 Q In your mind, you were pretty sure of that
7 fact in 1987?

8 A Yes. I wouldn't have asked Lance to say
9 something in open court about it if I didn't feel
10 that I had my facts pretty strong.

11 Q And I take it that Mr. Hopkins was angry
12 that this was said in bankruptcy court?

13 A That would be an understatement. He was
14 very angry, yes.

15 Q And you were at that bankruptcy hearing;
16 correct?

17 A I was there, yes.

18 Q So he was angry at the hearing itself?

19 A Yes, sir.

20 Q In addition to being angry when he spoke to
21 you?

22 A As I said, he does have a bit of a temper.

1 Q Now, the last part of this memo I want to
2 refer to is the next sentence which goes from the
3 second to the third pages. "At the hearing we were
4 successful in having the Peacock brothers doing
5 business as the Peacock Companies Chapter 11
6 bankruptcy petition dismissed with prejudice."

7 That's accurate, isn't it?

8 A I didn't remember that. I probably at the
9 time didn't even understand what dismissal with
10 prejudice was. I knew that Lance told me we won.
11 You know, I have this same situation now with my
12 clients. They don't understand what courts say and I
13 just turn around and say you won. So we won and I
14 assume this is what the result was.

15 Q As of April 1987, you had already started
16 your law school studies; right?

17 A Yes, I had. I was in my second semester.

18 Q What would have been the -- if you know,
19 what would have been the effect of the dismissal of
20 the Peacock bankruptcy petition upon the various
21 lawsuits that Madison had going on against Peacock?

22 A Well, now bankruptcy is not my real strong

1 suit, but the bankruptcy protection he would have
2 gotten by filing would have kept us from proceeding
3 with our foreclosure or other collection activities
4 that we may have had ongoing. And when the stay was
5 lifted and the case dismissed, we were able to
6 proceed with collections.

7 Q So am I right that the dismissal of the
8 bankruptcy action increased Peacock's exposure, his
9 liability in connection with these other lawsuits?

10 A Yes, sir.

11 Q Okay. I want to refer to the handwritten
12 memo.

13 A All right.

14 Q Document labeled "fundraiser 17."

15 A What does that mean?

16 Q The House of Representatives prepared a
17 series of documents on this and related topics, and
18 they called it the fundraiser issue and they just
19 numbered the documents.

20 A I see. All right.

21 Q In fact, while we're on it, do you know
22 anything about a fundraiser held at Madison Guaranty

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1 on or about April 4th, 1985? I realize that's a
2 little bit before you joined Madison, but I thought
3 maybe you heard something about it.

4 A Never heard a word about it until I read it
5 in the paper, you know, a year or so ago.

6 MR. BARTOLOMUCCI: We'll go off the record
7 for a second.

8 (Discussion off the record.)

9 BY MR. BARTOLOMUCCI:

10 Q So Ms. Hays, apart from what you've read in
11 the papers, you don't know anything about this
12 fundraiser?

13 A No, I don't.

14 Q Okay. Referring you to that page of
15 handwritten notes which I'll tell you are notes that
16 Lance Miller made of your phone call to him, the
17 second sentence says "Dixie loan went to Clinton
18 campaign. Signed lease to state. A lot of people
19 going to prison." My only question here was
20 Hopkins's allegation or claim that people were going
21 to go to prison was connected to this business about
22 the Dixie loan and the leases; is that right?

1 A Well, I don't know. I mean, I think the
2 more expanded version that Lance has in the
3 typewritten memo is more accurate. I don't know that
4 he necessarily said, implied even, that it was the
5 lease or the campaign contribution or any of that.
6 In my mind, I think he was talking in general.
7 People, the prior administration of Madison in
8 general, people would be going to prison. I don't
9 think that he was specifically talking about -- he
10 might have been, but I didn't really take it that
11 way.

12 Q I just bring this up because the Miller
13 typewritten memo talks about people going to prison
14 in the third paragraph and then it's not until a few
15 paragraphs later that he starts talking about the
16 loans and the leases, and this handwritten memo
17 seemed to imply that the people going to prison was
18 related to the loans and the leases. So I just
19 wanted to see if that was your memory of it.

20 A I agree that the handwritten memo seems to
21 imply that, but I don't -- I think Lance was probably
22 just writing down some key phrases, and I don't think

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1 that Greg implied to me that it was that particular
2 transaction that was going to cost people to go to
3 prison.

4 Q At the bottom of the memo it says "McDougal
5 told Peacock that JGT" -- I assume that's Jim Guy
6 Tucker -- "and McDougal would take care of Peacock."

7 Is that something that Hopkins said?

8 A Yes. But I mean, I heard that from
9 everybody that ever had business dealings with Jim
10 that I tried to collect loans from. You know, I had
11 a deal with Jim and I just said he's not here anymore
12 and you don't have a deal anymore. So that wasn't
13 anything new or surprising to me.

14 Q So by "take care of," Hopkins, you
15 understood him to mean that Peacock had a deal with
16 McDougal? Ms. Hays, did you answer that question?

17 A Yes, I did. I'm sorry. I said that's
18 right.

19 Q Okay. And did Hopkins also mention Jim Guy
20 Tucker?

21 A Yes, I believe he did.

22 Q Now, what was your understanding about how

1 Jim Guy Tucker fit in this?

2 A I think just because he was a principal in
3 the Mitchell, Williams, Selig & Tucker law firm.

4 Q I see. And that's the firm seeking
5 foreclosure on the note?

6 A Right.

7 Q So essentially what Hopkins was saying was,
8 you know, look, McDougal and Madison and Jim Guy
9 Tucker at Mitchell, Williams were, you know, they had
10 a deal with Peacock, and now you're foreclosing on
11 this loan and that's wrong.

12 A Oh, no, no, I'm sorry. That's not what I
13 mean. Not -- I thought you were asking me how did
14 Jim Guy Tucker fit into all this. And I thought, I
15 mean Greg brought Jim Guy up because he was a
16 principal in the Mitchell firm. I don't really
17 remember, and maybe I answered incorrectly just
18 looking at this now, I remember Greg saying that
19 McDougal would take care of Mr. Peacock. I don't
20 remember him saying that Jim Guy Tucker would take
21 care of Mr. Peacock.

22 Q But did Hopkins say something about Jim Guy

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1 Tucker and Peacock?

2 A As I recall, what he was saying about Jim
3 Guy Tucker was just about the fact that the Mitchell
4 firm, you know, he was part of the Mitchell firm and
5 they were churning the files and that Mr. Tucker had
6 some business dealings with Mr. McDougal. But I
7 don't know of any business dealings that Mr. Tucker
8 had with Mr. Peacock.

9 Q Okay. I just want to back up for a second
10 and close the loop on some questions I was asking you
11 earlier.

12 Did you tell me that you never saw Governor
13 Clinton together with Jim McDougal?

14 A I never saw them together, no.

15 Q Were you ever at a trailer with Jim
16 McDougal?

17 A A trailer. Like a mobile home?

18 Q Yes.

19 A Possibly at Castle Grande. I may have
20 been.

21 Q Now that's the one I was thinking of. So
22 Mr. McDougal did have a trailer, to your memory, on

1 the Castle Grande property?

2 A I don't know that Mr. McDougal had one. I
3 think there was like an office that was in a
4 trailer. I mean, I don't think it was something that
5 Mr. McDougal was living in. It could have been -- I
6 just don't remember. But I think I was out at Castle
7 Grande a couple of times.

8 Q At this trailer or mobile home?

9 A I don't know.

10 Q I take it you don't remember seeing
11 Governor Clinton there?

12 A No, I didn't. I don't even think
13 Mr. McDougal was there at the same time I was.

14 Q And also just to close the loop, I take it
15 you never saw Hillary Clinton at Madison?

16 A No. I never even met or saw Hillary
17 Clinton in person until after I had already been a
18 lawyer at the Rose Law Firm for some period of time.

19 Q Did you ever see a man named David Hale
20 with Jim McDougal or Bill Clinton?

21 A I don't remember. I mean, I knew the name
22 because he was a judge, and he had some loans at

1 Madison or was a partner in some loans or something,
2 so I may have seen him in Madison.

3 Now, whether he was with Mr. McDougal I
4 couldn't tell you.

5 Q During that time you were at Madison, did
6 you connect David Hale and Governor Clinton in your
7 mind at all?

8 A No.

9 Q Okay. Going back to the Hopkins business,
10 subsequent to your conversation with Hopkins, you
11 picked up the phone and called Lance Miller; right?

12 A That's right.

13 Q Do you know how long that conversation
14 lasted?

15 A I don't have any idea.

16 Q Did you talk to anyone else about what
17 Hopkins had said?

18 A I don't remember.

19 Q Do you remember if you talked to Marcy
20 Taylor?

21 A I don't remember. I may have.

22 Q She was handling the case; right, the

1 lawsuit?

2 A Right. But as I said, I felt that Greg's
3 anger was more directed at Lance because of the
4 bankruptcy hearing a few weeks earlier, and I know I
5 called Lance. I don't know if I talked to anyone
6 else. I may have. I don't have any memory of it.

7 Q Did you take any notes of your conversation
8 with Greg Hopkins?

9 A No. We were not sitting down. We were
10 standing up and I wasn't able to write anything
11 down. As you know, I was a copious note-taker, so
12 I'm sure if I had written anything you would have it.

13 Q Well, I haven't seen any. I won't mislead
14 you. And I take it that after his departure, you
15 didn't take any notes or memoranda?

16 A No. I mean, I generally did that because
17 John Latham was a real disorganized kind of person,
18 and he would constantly have me do the same thing
19 over and over again. And so I would just keep track
20 of what I did, and then when he said, you know, do X,
21 I would think oh, I did that a couple months ago, and
22 I would go pull that file and find what I had done,

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1 and not have to reinvent the wheel again.

2 Q On the issue of whether you talked to Marcy
3 Taylor, I have a short letter that you wrote to Marcy
4 dated April 27th, 1987. And this was a document I
5 couldn't share with you, but it does say on it "last
6 week on the phone Greg Hopkins said that some of this
7 money was used to make a campaign contribution to
8 Governor Clinton."

9 MR. PORTNOY: Could you finish the
10 paragraph so the record is complete?

11 BY MR. BARTOLOMUCCI:

12 Q Sure. It says "No one here knows anything
13 about it. It wasn't a check written by Quapaw or
14 Madison Financial."

15 I guess my first question is, do you
16 remember writing a letter to Marcy Taylor reflecting
17 part of what Hopkins had said?

18 A No, I don't.

19 Q What do you make of the fact that this memo
20 says "last week on the phone Greg Hopkins said that
21 some of the money was used to make a contribution to
22 Governor Clinton"?

1 A I don't know what to make of it. Maybe
2 there was a phone conversation, but I clearly
3 remember Greg being in my office in person delivering
4 this message to me.

5 Q And he was angry and shouting at you?

6 A That's right.

7 Q And so that's the sort of thing that would
8 stick out in one's mind?

9 A Did in mine.

10 Q So is it possible that you also had a phone
11 conversation with Mr. Hopkins?

12 A Possibly. It's possible I also made a
13 mistake when I dictated the letter and should have
14 said in person instead of over the phone. I don't
15 think that I had two different discussions with
16 Mr. Hopkins. I think there was just the one. And so
17 saying over the phone could have just been an error
18 on my part.

19 Q Did you talk to anyone at Madison Guaranty
20 about Hopkins's allegations?

21 A I probably talked to Greg Young. I may
22 have talked to Steven Cuffman, but I can't tell you

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1 for sure.

2 Q Okay. But you don't have a memory of what
3 you might have said to them?

4 A No. Other than just repeating what Greg
5 told me.

6 Q Did you take any steps as far as
7 investigating his allegations goes?

8 A No, no, I did not.

9 Q So you essentially, you know, relayed the
10 information to Lance Miller and thought he, you know,
11 let him worry about it?

12 A That's right.

13 Q And I take it that Lance Miller never
14 called you back to discuss the matter further?

15 A Not that I remember, no. And I left
16 Madison shortly after that, so there wouldn't have
17 been a lot of opportunity for us to discuss it
18 further.

19 Q Right. As I understand it, I think you
20 left Madison in May of '87 so that would have been
21 very shortly thereafter.

22 That date sounds right to you, doesn't it?

1 A Yes, I don't remember the exact date in
2 May, but sometime in May of '87 I left. Like I said,
3 that wasn't too long after this April 23rd memo, and
4 I don't think I had any, probably, any further
5 discussions with Lance.

6 Q Apart from what you've gleaned from the
7 paper, did you ever learn or hear anything else about
8 this allegation that loan proceeds had been diverted
9 to Governor Clinton?

10 MR. PORTNOY: Ms. Hays, this is Jim
11 Portnoy, we didn't hear a response. I don't mean to
12 cut you off if you did respond.

13 THE WITNESS: I did. I said no, sir.

14 BY MR. BARTOLOMUCCI:

15 Q Okay. Thank you. And similar question,
16 did you ever -- apart from press reports, did you
17 ever learn or hear anything about the allegation that
18 in exchange for campaign contributions, Governor
19 Clinton arranged for a state agency to lease space
20 from Madison?

21 A Did I ever hear that other than press
22 reports, is that the question?

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1 Q Well, other than what Hopkins told you and
2 setting aside what you might have heard or learned
3 through the press, did you hear or learn anything
4 about that allegation about the leases?

5 A I don't think so. Nothing comes to mind.

6 Q Okay. I'm sorry?

7 A I may think of something later, but at the
8 moment I don't recall ever hearing that from any
9 other source.

10 Q Okay. Well, if something comes to mind,
11 you can have your attorney contact me and
12 Mr. Portnoy. I don't have a whole lot more questions
13 for you. I'll try to run through them quickly. One
14 thing I want to ask about, I have a copy of a
15 deposition taken of you in the RTC versus Frost
16 case.

17 A Yes.

18 Q You remember being deposed in connection
19 with that matter?

20 A I remember it well.

21 Q Just for the record, this is a document
22 labeled RIC 19504. And on page 20 of the deposition

1 there's the following series of questions and
2 answers. It says "did you ever receive any gifts
3 from Mr. Peacock?

4 "Answer: Yes, I did.

5 "Question: What was that?

6 "Answer: A watch.

7 "Question: What kind of watch?

8 "Answer: A fake Rolex watch.

9 "Question: And for what purpose did he
10 provide you with that?

11 "Answer: He lied to me."

12 A No, that's not correct. And I filled out
13 an errata sheet and sent it back to the court
14 reporter. My response was he liked me. She left the
15 "k" out. He liked me. He gave me the watch because
16 he liked me.

17 Q Understood. Understood. Thank you for
18 clearing that up.

19 A Not that I believed it to be a real watch
20 because I certainly did not.

21 Q Now, at the --

22 A Are you going to ask me about that on

1 Wednesday?

2 Q No, no, no. We don't care about the
3 watch.

4 A I have the watch if you'd like to have it.

5 Q I've got a fake Rolex or two myself.

6 Now, when Mr. Hopkins came to you and
7 started talking about matters related to the Dixie
8 Continental case, at the time did you think that was
9 in any way improper?

10 A I'm not totally sure at the time, but
11 certainly now as an attorney I believe it was. And
12 probably at the time it probably seemed a little bit
13 odd to me that the information he was giving me
14 obviously came from his client and some sort of
15 privilege should attach to it and probably shouldn't
16 be told to me. So, yes, I don't know that I felt it
17 as strongly as I would now having been a lawyer for
18 six years, but --

19 Q Well, let me start with this. It was your
20 understanding that the information Hopkins was
21 conveying to you came from Charles Peacock?

22 A That was my assumption. He didn't tell me

1 that. I assumed it because he was representing
2 Mr. Peacock on that loan, and I assumed that that's
3 where he got his information from. That could be
4 incorrect.

5 Q I guess the potential impropriety I was
6 thinking about apart from maybe revealing a client's
7 confidences was the fact that Madison Guaranty was
8 being represented by the Mitchell, Williams firm and
9 you were an employee of Madison Guaranty.

10 A Right.

11 Q Let me ask you this --

12 A Should have talked to my counsel instead of
13 to me.

14 Q Right. I mean, as an attorney you're aware
15 of the rule that prohibits an attorney from
16 contacting a represented party; right?

17 A I get onto people all the time for calling
18 my clients directly, yes.

19 Q In that particular case Madison was really
20 the client of the Mitchell, Williams firm; right?

21 A That is correct.

22 Q But you were an employee of Madison?

1 A That's right.

2 Q So?

3 A I was their representative, Madison's
4 representative.

5 Q So looking back on it now, do you think it
6 was improper for Hopkins to have contacted you for
7 that reason?

8 A Do I think that now?

9 Q Yes.

10 A Sure.

11 Q And that's --

12 A I don't know that I thought that at the
13 time, though. I don't think that I did think that at
14 the time.

15 Q Well, I initially asked whether you thought
16 that at the time because I knew that you had already
17 been in law school and maybe had taken professional
18 responsibility at that point?

19 A When you're in night school you only take
20 nine or 10 hours a semester. So at that point I had
21 only completed 10 hours and was working on my second
22 10 and legal professional came much later.

1 Q I was going to give you the benefit of the
2 doubt, but now, so but looking back on it now as a
3 member of the Arkansas Bar, it's your opinion that
4 that was an improper contact?

5 A Right.

6 Q And you said you regularly get on other
7 attorneys for doing similar things to your clients?

8 A Yeah. Right now because I represent the
9 city and we've got 1800 employees, and people will
10 tend to forget and think, well, they can just call
11 the director of fleet services about a lawsuit and
12 not realize, you know, they're represented by counsel
13 and they need to go through me.

14 So, you know, that happens a lot and I'm
15 very aware of it and I don't -- I think it's very
16 unprofessional when attorneys contact clients
17 directly that are represented by counsel.

18 Q Would you go so far as to say that that was
19 unethical behavior on Mr. Hopkins's part?

20 A I can't really say that. I don't, I am not
21 going to be the judge of anyone's ethics.

22 Q Fair enough. I just have a few more

1 questions on the subject matter of Madison's plan to
2 issue a series of preferred stock.

3 A All right.

4 Q Now, I take it you did have some
5 involvement in Madison's plan to issue a series of
6 preferred stock.

7 A No, I didn't. Let me say if you are
8 talking about what I have seen, the testimony of Rick
9 Massey and Davis Fitzhugh and all those people and
10 Beverly Bassett, I didn't have anything to do with
11 that. I didn't know anything about that until, you
12 know, fairly recently.

13 The only thing I knew about was a proposal
14 or idea really in John Latham's mind that we could
15 try to do a public offering. And that never went
16 anywhere. It was just in the conception stage in
17 John's mind. He wanted a lot of questions answered,
18 and he had me call Rick Massey and ask him questions,
19 and I will tell you even now that I am a lawyer, I
20 still don't understand the questions nor the
21 answers.

22 But I would take down whatever Rick told

1 me, put it in a memorandum memo back to John, and I
2 basically carried information back and forth between
3 them and nothing ever came of that. But that, as I
4 understand it, was something entirely separate from
5 the preferred stock issue that has been the subject
6 of many of your hearings.

7 Q So is it your understanding that the
8 preferred stock issuance was not going to be public?

9 A I think that was to be a private offering.
10 And I could be wrong. I certainly would not be the
11 person with enough knowledge to answer your questions
12 about that.

13 Q Okay. I just want to run through quickly
14 some of your notes about this matter. I guess it's
15 really the latter matter that you've talked about.

16 One page of notes which is identified IN
17 0015 says "Rick Massey" and that's underlined.
18 "Letter to sec. comm.," which I take to be
19 securities commissioner, "where we stand in regards
20 to net worth requirement. 900,000 below stock dash
21 authorized 3M. Need letter today."

22 A That's Greek to me. I'm sorry. I don't

1 know what that means.

2 Q Do you remember anything about a letter to
3 the securities commissioner?

4 A No.

5 Q Okay. This is a page of your notes
6 identified as IN 0092. This one is more textual. It
7 says "Rick is going to write a letter giving a
8 reasoned analysis explaining why he thinks the
9 regulation doesn't apply -- that MGS&L is not
10 violating the direct investment rule." Do you have
11 any memory of something about the direct investment
12 rule?

13 A No, I don't.

14 Q If I were to tell you that the direct
15 investment rule, as we understand it, is one which
16 would limit the amount of money that a savings and
17 loan could invest in real estate --

18 A Yes, I understand what the direct
19 investment rule is. I'm just saying I don't really
20 remember why I would have talked to Rick Massey about
21 it. I don't have any reason, you know, to disagree
22 with my own notes, but without seeing them and

1 thinking about it a little bit more, I mean just
2 getting me cold like this, I just don't know how to
3 answer your question.

4 Q Well, and I apologize that I can't show
5 them to you. That's part of the reason why initially
6 I hoped to have you come to Washington for this
7 deposition. But, in any event, I appreciate you
8 making yourself available over the phone.

9 So you don't remember anything about Rick
10 Massey was going to write an analysis about why the
11 direct investment rule doesn't apply, that doesn't
12 ring any bells with you?

13 A I'm sorry, it doesn't.

14 MR. BELEW: Chris, let's take a real short
15 break.

16 MR. BARTOLOMUCCI: Okay. Just tell me when
17 you're back.

18 (Recess.)

19 BY MR. BARTOLOMUCCI:

20 Q Ms. Hays, just below that notation about
21 the direct investment rule and the letter that Rick
22 was going to write, there's a note to the fact "if no

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1 favorable response, we'll go to Beverly Bassett.
2 Ark. sec. deputy" or Arkansas securities deputy.

3 Do you remember anything in this matter
4 that related to Beverly Bassett?

5 A Are you looking at something that's like a
6 list of things or is that --

7 Q It is. I'll tell you it's a list of
8 things. There's a 17 with Rick Massey's name beside
9 it.

10 A Okay. I mean those lists -- every morning
11 I had a meeting with John Latham, and he gave me a
12 list of things to do every day. And so I made, I
13 scribbled notes in his office and then go back and
14 make a neat list while it was still fresh in my mind
15 so I knew what I was supposed to do. That's probably
16 something that John said to me. And I can't tell you
17 what it means, but if there wasn't a favorable
18 response we'd go to Beverly Bassett. I'm sure that
19 came from John and I just jotted it down there.

20 Q But you have no independent memory today of
21 what that was about?

22 A That particular thing?

1 Q That particular notation.

2 A No, sir.

3 Q Do you have any memory of Beverly Bassett
4 being contacted in connection with any Madison stock
5 plan?

6 A I have a recollection of her being
7 contacted. I'm not totally sure in regard to what.
8 As I said, at the time I was in the dark. I only
9 knew this one little, tiny thing that I was quizzing
10 Rick Massey about. I didn't know that the broker
11 dealer and the other stuff was going on.

12 I can tell you what I do know is that I --
13 John Latham was real bad about not wanting to talk to
14 people on the phone, so he would always have me
15 returning calls for him. And one call I returned for
16 him was to Beverly Bassett. And I can't tell you
17 whether I spoke to her or someone else in her office,
18 but there was to have been a meeting, and I don't
19 know who, a meeting of who except John Latham, a
20 meeting with Ms. Bassett.

21 And she had phoned to say that she needed
22 to cancel it, that her office was moving to a new

1 location, that she wouldn't be able to have the
2 meeting as planned, and that she would do it at any
3 time at John Latham's convenience. And other than me
4 relaying that to Mr. Latham and him smarting off
5 something like tell her 6:00 on Saturday morning,
6 which I didn't do of course, that's really all I know
7 about it.

8 Q Do you know if anyone from the Rose Law
9 Firm was going to attend that meeting?

10 A I don't know. I just know that Mr. Latham
11 was going to attend it. And I don't know if it ever
12 got rescheduled.

13 Q Do you remember anything about Hillary
14 Clinton contacting Beverly Bassett?

15 A I don't know anything about that, no.

16 Q All right. The last note I want to ask you
17 about has "S. Hawkins" written at the top of the page
18 and underneath it is written "has she contacted John
19 Selig. Would rather use Hillary Clinton."

20 A That's what -- that's it. I mean, a while
21 ago when I said there was some kind of memo --

22 Q Yeah.

1 A -- that's what that's talking about.

2 Q Okay.

3 A I don't remember the little note, but I've
4 seen a typewritten memo about that.

5 Q Okay. You've seen a typewritten memo?

6 A Yes.

7 Q What I'm looking at is some of your
8 notations.

9 A I haven't seen those, that particular one
10 anyway, any time recently. I have seen a typewritten
11 memo regarding that matter. And that's what I told
12 you about earlier.

13 Q Can you tell me again what your
14 understanding of the phrase "would rather use Hillary
15 Clinton" means?

16 A I don't know that I remember "would rather
17 use Hillary." I was thinking that what I had put in
18 the memo was that -- or maybe that is what -- I don't
19 know. I'm getting mixed up now. I just know that
20 instead of John Selig that John Latham wanted to use
21 Hillary Clinton. I don't know why. Again, I was a
22 message-taker relaying something obviously between

1 Sarah Hawkins and John Latham.

2 Q Do you remember what the matter was that
3 this related to?

4 A I don't have any idea. I remember that it
5 had something to do with the Federal Home Loan Bank
6 Board, and I just remember that because I saw that in
7 the typewritten memo.

8 Q Okay. And that's the extent of your memory
9 on this?

10 A That's it. And I'll tell you when they
11 showed me that memo, I mean I had, I couldn't believe
12 it. I didn't remember Hillary's name, ever hearing
13 her name or ever writing her name or anything the
14 whole time I was at Madison.

15 MR. BARTOLOMUCCI: Okay, just for the
16 record, that was a document numbered IN 241.

17 I think that's all the questions I have at
18 this time. I'm going to let Jim go ahead and then I
19 may have some redirect.

20 THE WITNESS: All right.

21 EXAMINATION

22 BY MR. PORTNOY:

1 Q Good afternoon, Ms. Hays.

2 A Good afternoon.

3 Q I'm Jim Portnoy, I'm counsel for the
4 Minority and I just have a few follow-up questions
5 for you.

6 A Okay.

7 Q At the very beginning of your deposition,
8 you stated that a reporter showed you the memorandum
9 that Mr. Miller wrote to Mr. Selig; is that correct?

10 A Yes, sir.

11 Q Who was that reporter?

12 A Bill Simmons from the Associated Press.

13 Q Do you recall when that was?

14 A Yes, it was in July of '95. He came to my
15 house. I know him. He goes to my church and that's
16 why he came to my home. He was my Sunday school
17 teacher.

18 Q Did Mr. Simmons give you any indication how
19 he had come by a copy of that memorandum?

20 A Yeah. He told me, but I don't remember. I
21 think he just said it was in documents that had been
22 released by the other committee, not yours but the --

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1 MR. BARTOLOMUCCI: The House of
2 Representatives.

3 THE WITNESS: Yes, I'm sorry, I just
4 blanked out. The House Committee, I believe that's
5 what he told me. But that could be wrong. You would
6 really have to ask him how he got it.

7 BY MR. PORTNOY:

8 Q What did Mr. Simmons ask you about the
9 memorandum?

10 A Well, he actually showed it to me, which
11 was a step better than -- like I said, the special
12 counsel's office, they held it close to their chest
13 and questioned me about it, but wouldn't let me look
14 at it.

15 I read it and he asked me if I remembered
16 it, and I told him that I did. And he asked me, you
17 know, a lot of the same types of questions that Chris
18 just asked me and I didn't know anymore then than I
19 do now.

20 Q When you said you remembered it, did you
21 mean you remembered the memorandum or the --

22 A No.

1 Q -- or the events described in the
2 memorandum?

3 A I'm sorry, I remembered the events.
4 Because it was probably -- Bill Simmons came to see
5 me not long after the special counsel's office had
6 called me in about this memo. And when they called
7 me in about it, that was the first time I ever even
8 knew that a memo existed. And then it was the first
9 time I had ever actually seen it when Bill Simmons
10 showed it to me.

11 Q Was this after you had actually spoken with
12 the independent counsel?

13 A Yes, sir. And I told him and I believe it
14 was in the newspaper article, that I had been
15 interviewed about it at the special counsel's office.

16 Q Ms. Hays, I'd like to ask you to please
17 forebear from telling us anything that you discussed
18 with the independent counsel.

19 A Sure. I'm sorry.

20 MR. BARTOLOMUCCI: The fact that you did
21 talk to him is okay. And even when that might have
22 been, but we've just had a practice of not prying

1 into the substance of those interviews.

2 THE WITNESS: Okay. I'm sorry.

3 BY MR. PORTNOY:

4 Q You didn't do anything wrong. There is
5 just no reason for you to know where the line is
6 unless we tell you.

7 A Okay.

8 Q Do you recall anything else about your
9 conversation with Mr. Simmons?

10 A I believe he told me that he had talked to
11 or tried to talk to Mr. Hopkins without a lot of
12 success. I think I told Mr. Simmons that a part of
13 me considered -- and I don't, it's kind of hard to
14 differentiate between what I knew then and what I
15 know now. But a lot of this what Greg said struck me
16 as posturing that lawyers will do in litigation.
17 Especially people that have a little bit of a temper
18 like Greg, kind of huff and puff.

19 So it's not that I thought none of it was
20 true, because I did feel like some of it was probably
21 true, but, you know, I felt that there was some part
22 of Greg that was talking a little beyond, you know,

1 maybe what he knew. He was trying to intimidate me
2 because the litigation was ongoing and it was some
3 posturing by a lawyer.

4 Q Ms. Hays, did Mr. Simmons show you any
5 other documents?

6 A I don't remember. He had interviewed me a
7 couple of different times, and he has shown me other
8 documents. I don't remember what they are at the
9 moment. I don't think he had any other documents
10 relating to this except this memo.

11 Q Did he ever show you the handwritten
12 notes --

13 A No, he didn't.

14 Q -- from Mr. Miller. He did not?

15 A Did not.

16 Q Only the typed version?

17 A Yes, sir.

18 Q What other subjects did he interview you
19 about?

20 A At that time? At the time, he showed me
21 the memo -- or the other time.

22 Q Let's begin with the time when he showed

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1 you the memo.

2 A I believe that's all we discussed at that
3 time.

4 Q Did he indicate to you who else he might
5 have spoken with besides Mr. Hopkins?

6 A I don't remember. He may have said he
7 talked to Lance Miller, but I don't remember.

8 Q You've spoken with Mr. Simmons on other
9 occasions you said?

10 A Yes, sir.

11 Q How many times in the context of his
12 reporting?

13 A Okay. I was going to say I couldn't
14 quantify it otherwise. I believe he came to my home
15 on two occasions. One of which was when we discussed
16 this Lance Miller memorandum. And one earlier time.

17 Q And what was the subject of your earlier
18 discussion?

19 A He really just wanted background on what I
20 had done at Madison. He had a document, Jean Lewis's
21 statement that I had falsified records or something.
22 He wanted to hear my version of how the minutes were

1 written for Madison Financial. That was, it was just
2 general questions of that nature.

3 Again, that document of Jean Lewis, her
4 statement she had some memo she had written,
5 insinuating -- it was filled with inaccuracies
6 insinuating first, that I was a lawyer at the time I
7 worked at Madison and secondly, that I had
8 falsified -- I think she put "records." I certainly
9 never falsified anything, and the only minutes that
10 were -- only thing that was created was minutes.

11 So I felt highly offended. And I can tell
12 you I felt highly offended hearing her say my name on
13 national television and accusing me of doing that
14 also. Sorry, but Jean Lewis is not a topic that I
15 can be very polite about.

16 Q Other than that -- well, is there anything
17 else about that conversation that you recall?

18 A No, sir.

19 Q Did Mr. Simmons show you any documents at
20 that time other than the document you just described?

21 A No. The first time he talked to me, he did
22 not have this Lance Miller memorandum.

1 Q I'm sorry, I thought you said that he
2 showed you a document prepared by Jean Lewis?

3 A Yes, that was at our first meeting. That's
4 what you are talking about, other than that document
5 did he show me anything?

6 Q Yes.

7 A I think he may have had some of the minutes
8 of Madison Financial Corporation.

9 Q Could you be more specific about the
10 document prepared by Jean Lewis that he had?

11 A Yeah. I think -- do you know what it is,
12 John? I can't really remember. There was -- I know
13 that there had been a New York Times article written,
14 quoting her making disparaging remarks about me. And
15 then there was some kind of a chronology of events
16 that she had done and she made disparaging remarks
17 about me, and that she sent to Mr. Leach, whatever
18 his name is.

19 MR. BELEW: Jim Leach.

20 THE WITNESS: Jim Leach. And then let's
21 see. There was something else she did. I can't
22 remember.

1 BY MR. PORTNOY:

2 Q Did Mr. Simmons ever show you a copy of any
3 official RTC documents?

4 A Well, I mean those were official RTC
5 documents. They were memorandum that Jean Lewis
6 wrote.

7 Q Were any of them criminal referrals?

8 A No.

9 Q You are certain that none of the documents
10 that Mr. Simmons showed you were RTC criminal
11 referrals?

12 A None that he showed me were, and I am
13 familiar with what they look like because when I was
14 at Rose I represented the RTC and I worked with the
15 professional liability section, and I know what the
16 criminal referrals look like. I've read a number of
17 them on other institutions. And I'm sure Mr. Simmons
18 didn't show me anything like that.

19 Q Earlier Mr. Bartolomucci was discussing
20 with you the memorandum drafted by Mr. Miller on the
21 23rd of April. I'd ask you to pull that back out if
22 you would.

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1 A Yes, sir.

2 Q You indicated that you did not recall
3 Mr. Hopkins stating that he was considering resigning
4 his representation of Mr. Peacock. Did I understand
5 you correctly?

6 A I think that's what -- I don't really
7 remember it, but I don't have any reason to believe
8 he didn't say it. But I mean most everything else in
9 the memo as I've reflected on it since this was even
10 resurrected, I remember, and that part I really don't
11 remember. But it's very possible that it was said.

12 Q You indicated that Mr. Hopkins was upset
13 particularly with the Mitchell firm?

14 A Yes.

15 Q And the source of his upset was an
16 allegation that Mr. Miller made during the hearing on
17 the bankruptcy proceeding?

18 A That's correct.

19 Q That allegation was that Mr. Hopkins had
20 had his legal fees paid by a loan that Mr. Peacock
21 took out from Madison Guaranty shortly before the
22 hearing?

1 A Shortly before the bankruptcy petition was
2 filed.

3 Q You indicated that you were the source of
4 that allegation.

5 A Yes, sir.

6 Q Do you have any further information as to
7 whether that allegation is true or false?

8 A No, I don't.

9 Q Mr. Hopkins denied that he received payment
10 from a loan to Mr. Peacock; is that correct?

11 A That is correct.

12 Q Did you do any follow up?

13 A Not that I recall. As I said I didn't work
14 there much longer after this.

15 Q Did you believe Mr. Hopkins?

16 A I don't know. I felt strongly that it was
17 true or I wouldn't have made the accusation in the
18 first place and that's really all I can tell you.

19 Q Did anything Mr. Hopkins said in court
20 persuade you that you had been mistaken?

21 A No.

22 Q So you continued to believe that

1 Mr. Hopkins was paid with the proceeds of that loan?

2 A Yes, sir.

3 Q The implication of that would be that
4 Mr. Hopkins was not telling the truth wouldn't it?

5 A That would be it, yes. As I said, I don't
6 have any proof one way or the other. I just had a
7 real strong suspicion. I don't recall that I had any
8 concrete -- I didn't have a check or something like
9 that.

10 Q Did you think that Mr. Hopkins was telling
11 you the truth when he made these statements that are
12 reported in Mr. Miller's notes and memorandum?

13 A I thought there was some truth in them,
14 yes. You know, partly, or mostly even, true combined
15 with the huffing and puffing that a litigator will do
16 to try to gain an advantage for his client.

17 Q And yet a week earlier Mr. Hopkins had made
18 statements in court that you believed to be false;
19 isn't that correct?

20 A As far as whether he got the fee that way
21 from the loan proceeds?

22 Q Yes.

1 A That's true, yes.

2 Q So --

3 A I did not believe his answer.

4 Q So at the time of this conversation you
5 believed that Mr. Hopkins had very recently made
6 false statements in a very serious context, isn't
7 that true?

8 A Yes, sir.

9 Q Did you have any reason to believe that he
10 had undergone an epiphany and gone from being less
11 than honest to being honest?

12 A No.

13 MR. BARTOLOMUCCI: Well, just so the record
14 is clear, I don't think she testified that, for
15 example, she had previously believed Mr. Hopkins was
16 a truthful person then decided he was an untruthful
17 person. She said that she doubted what he was saying
18 at the bankruptcy matter, but believed him at their
19 meeting.

20 BY MR. PORTNOY:

21 Q Mr. Bartolomucci makes a good point. Was
22 it your view of Mr. Hopkins that he was a truthful

1 person?

2 A I don't know. I mean, there are people
3 such as Lance Miller that I wouldn't hesitate to say
4 that, from the moment I met him that was my
5 impression of him. I don't know that I can say that
6 as adamantly about Greg Hopkins. I know that when he
7 did work for Madison that I, you know, I thought he
8 was an honest person. At least with respect to the
9 work that he was doing for us, but other than that --
10 I didn't really know him out of the context of the
11 working relationship to be able to form a different
12 opinion.

13 But I mean, I understand what you're
14 saying. You know, one week I thought he was lying
15 and the next week why would I believe all these
16 serious allegations, and you know it's a good
17 question. It's just that a lot of what he was
18 saying, it wasn't news to me. And maybe the
19 particulars that statements like that people are
20 going to go to prison, I mean that was widely known.
21 That was widely talked about and speculated about.

22 Q If I can stop you there Ms. Hays.

1 A Sure. Sorry, I'm rambling.

2 Q That's fine. We're happy to allow you to
3 respond as fully as you'd like. You spoke earlier
4 about that comment that people are going to go to
5 prison. And that's a fairly powerful statement.

6 Could you be precise as to which people you
7 thought Mr. Hopkins was referring to?

8 A Jim McDougal, Susan McDougal, one or more
9 of the Henley brothers, John Latham. That's
10 essentially it.

11 Q So all of those people were Madison
12 insiders?

13 A Yes, sir.

14 Q You didn't believe that he was referring to
15 Governor Clinton, did you?

16 A No, not at all.

17 Q And you didn't believe that he was
18 referring to anybody associated with the Clinton
19 gubernatorial campaign, did you?

20 A No.

21 Q Or the Clinton administration?

22 A No. He was strictly talking about Madison

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1 related insiders as you called them that had been
2 running Madison. That's who I understood him to be
3 talking about, definitely.

4 Q And so when Mr. Hopkins stated to you that
5 Dixie loan proceeds went to the Clinton campaign --

6 A Yes.

7 Q -- you had no reason to believe that anyone
8 in the Clinton campaign knew that they had received
9 the proceeds of the Dixie Continental loan, did you?

10 A No, sir.

11 Q Did Mr. Hopkins say anything to suggest to
12 you that anyone on the receiving end of those
13 contributions knew what their source was?

14 A No, he did not.

15 Q You don't have any firsthand knowledge of
16 that allegation, do you, Ms. Hays?

17 A What allegation?

18 Q That Dixie loan proceeds went to the
19 Clinton campaign?

20 A No, I sure don't. I'm sorry. I'm fading
21 on you, I guess.

22 Q So everything you know about that

1 allegation comes from your conversation with
2 Mr. Hopkins?

3 A That is correct.

4 Q And you didn't do anything to try and
5 ascertain whether his statements were accurate or
6 truthful?

7 A To the best of my recollection, I did not.
8 It occurs to me that it's something knowing the kind
9 of person that I am that I probably would have
10 checked into, but I just didn't stay there very much
11 longer after this. And I just don't think I had the
12 chance or the desire to even know the answer.

13 Q You testified earlier that you viewed this
14 allegation, this transaction as "just one more thing"
15 that Mr. McDougal had done. Would it be fair then to
16 characterize your view of this transaction as having
17 been initiated by Mr. McDougal?

18 A That was my impression, yes, it was. I
19 don't know whether that was an accurate impression,
20 but that was how I perceived it.

21 Q In your letter dated April 27th, 1987 to
22 Ms. Taylor you reported on a conversation with

1 Mr. Hopkins and in your discussion with
2 Mr. Bartolomucci, you suggested that the letter was
3 erroneous when it refers to a phone conversation with
4 Mr. Hopkins?

5 A That's a possibility. I don't remember a
6 phone conversation. I remember a live, in-person
7 meeting.

8 Q If I could read into the record again the
9 statements that Mr. Bartolomucci referred to. "Last
10 week on the phone Greg Hopkins said that some of this
11 money" -- and now referring to the loan to Dixie
12 Continental I believe -- "was used to make a campaign
13 contribution to Governor Clinton. No one here knows
14 anything about it." Does that suggest that you did
15 check into the allegations?

16 A Sounds like I did, yes. And as I said, I
17 mean I'm the kind of person that would. I don't know
18 how hard I tried -- you know, dug into it or what I
19 tried to do, but I must have asked some people about
20 it at least.

21 Q And does that also suggest that none of the
22 people you spoke with knew anything about the

1 allegation?

2 A That's what it suggests, yes.

3 Q So would it be fair to say that after

4 Mr. Hopkins made this allegation, you undertook at
5 least some efforts to ascertain its veracity and you
6 were unable to make any headway?

7 A Yes, based on the document. Like I said, I
8 haven't seen that document, and I may have answered
9 inaccurately before when I said I didn't think I did
10 anything. Apparently, I did. I don't really
11 remember doing anything, but it sounds like whatever
12 I did to try to determine whether it was true or not,
13 that no one that I talked to knew anything about it.
14 But you have to keep in mind that the people that
15 were left were not the people that were involved in
16 any wrongdoing, and so it doesn't really strike me as
17 unusual that I turned up with nothing.

18 Q You were also asked, Ms. Hays, about the
19 statement that Greg is going to get out because
20 something is too dirty?

21 A Right.

22 Q Could you explain a little further what you

1 meant. I believe you testified earlier that
2 Mr. Hopkins was concerned because the litigation
3 between him and the Mitchell firm had become too
4 personal and acrimonious.

5 A Yes.

6 Q Is that because of the allegations
7 regarding the source of his payment?

8 A Yes.

9 Q To the best of your knowledge, was
10 Mr. Hopkins referring to anything other than the
11 personal acrimony?

12 A Not to my knowledge, no. He could have
13 been, but I don't know what was going on inside of
14 his head.

15 Q So you have no reason to think that this
16 was a general comment about the state of, for
17 example, Mr. Peacock's affairs?

18 A No. In fact, that's the one thing I think
19 I've testified that I don't really remember Greg
20 saying. But I don't have any reason to doubt that he
21 did and I relayed it on to Lance Miller. I just
22 don't -- I'm real fuzzy on that. I can remember

1 everything else, you know, to some degree that's
2 mentioned in the memorandum, but I don't really, I'm
3 real fuzzy on that.

4 Q Again, with respect to the memorandum,
5 there's reference made to a lease to the state?

6 A I'm sorry, I couldn't hear you.

7 Q I'll try again. Mr. Miller's phone notes
8 make reference, and I believe the memorandum does as
9 well, to a lease with the state.

10 A Yes.

11 Q And you testified earlier that you believed
12 that to pertain to state leases at the Madison
13 Guaranty building or lease?

14 A Yes. The ADFA lease.

15 Q Did Mr. Hopkins say that to you or was that
16 your assumption?

17 A I don't remember. I don't remember. I
18 mean I knew that ADFA was leasing space and I don't
19 know if it was my assumption that that's what he was
20 talking about or if he specifically said that.

21 Q You also testified that ADFA leased space
22 in the Madison Guaranty building before you came to

1 work at Madison.

2 A I think that's right. That could be
3 incorrect, but I thought they were already in that
4 space prior to my coming on board. That may be
5 wrong.

6 Q So you would have had no involvement in the
7 leasing arrangements, would you?

8 A No. Not at that time. I may have been
9 involved later at some renegotiation of the lease or
10 something.

11 Q Well, that's a good question. The lease
12 was in fact expanded to include additional space. Do
13 you recall that?

14 A Yes, I kind of do sitting here thinking
15 about it. I remember going over there, you know, on
16 that side of the building and walking through it and
17 having them show me, you know, other areas that they
18 wanted to lease or -- I can't remember a lot of
19 details about it, but I think it was that the lease
20 was renegotiated or something to add some additional
21 space.

22 Q Do you remember who you walked through that

1 space with?

2 A I really don't. It could have been
3 somebody like Lisa Anspaugh.

4 Q It would have been somebody from Madison?

5 A Yeah, I believe it was.

6 Q It wasn't somebody from a state agency?

7 A I think they were with us. I can't tell
8 you who, though, somebody from ADFA was showing us
9 what else they wanted to lease.

10 Q Do you recall that it was at the impetus of
11 ADFA that the lease was expanded?

12 A I don't really recall a whole lot about
13 this. I can't say for sure, but I think that's what
14 it was, yes.

15 Q Let me ask you the question differently.
16 Do you have any reason to believe that the lease
17 extension had anything to do with Clinton campaign
18 contributions?

19 A No. I mean, the lease had -- what I
20 remember going over there and walking through was
21 that they needed some more space. And that's all
22 that I ever knew about it.

1 Q Do you have any recollection of any hint of
2 impropriety about the process of extending or
3 expanding the lease?

4 A No, I don't.

5 Q I would ask you the same question with
6 respect to the leasing of the revenue office at 1520
7 Main Street which you referred to earlier. Do you
8 have any reason to believe that there was any
9 impropriety with respect to that?

10 A No. Could you be more specific? I mean,
11 impropriety with the Clinton campaign and their
12 knowledge of any impropriety?

13 Q Let me lay it out quite clearly.

14 A Okay.

15 Q The allegation has been made and it has
16 been suggested that Mr. Miller's notes either support
17 or at least raise the allegation that somehow the
18 Clinton campaign received contributions and in return
19 leased space from Madison Guaranty.

20 A That's correct. That they do seem to say
21 that.

22 Q Do you have any reason to believe that that

1 allegation is true?

2 A No, I don't. I mean, the only thing I know
3 is that a state agency leased space from Madison.
4 That was all done before I came. I don't know
5 anything about how or why it was done.

6 MR. BARTOLOMUCCI: And you know what Greg
7 Hopkins told you.

8 THE WITNESS: Right.

9 MR. BARTOLOMUCCI: And you know who Greg
10 Hopkins was.

11 THE WITNESS: Yes. I mean, when he said it
12 I believed it was in the realm of possibility because
13 I knew about the ADFA lease.

14 BY MR. PORTNOY:

15 Q And because you knew that the people you
16 had worked with at Madison had engaged in conduct
17 that might be potentially troubling?

18 A Yes.

19 MR. BELEW: I think we must be about
20 through. I hear paper shuffling.

21 MR. PORTNOY: You do. Unfortunately we
22 didn't go in exactly a straight line during the

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1 direct examination. I'm trying to go in a straight
2 line at this point and dispense with the memoranda
3 first and then move on to a slightly different
4 subject.

5 BY MR. PORTNOY:

6 Q And I think we've reached that point. You
7 were asked, Ms. Hays, about Madison's retention of
8 the Rose Law Firm?

9 A Yes.

10 Q That took place before you joined Madison,
11 did it not?

12 A It did.

13 Q So you don't know anything about the terms
14 or conditions under which the retention agreement was
15 reached, do you?

16 A No, I don't.

17 Q And you don't know anything about the
18 agreement to pay a retainer in the first instance?

19 A No. I only know that it was paid. I don't
20 know the reason why or anything about how the
21 agreement was structured.

22 Q You indicated that sometime during your

1 tenure at Madison you became concerned that the
2 retainer was being paid but you weren't directing
3 work to the Rose Law Firm; is that correct?

4 A Yes, sir.

5 Q As an attorney you're familiar with
6 retainers and retention agreements generally, aren't
7 you?

8 A Yes.

9 Q And presumably you're aware that there are
10 at least two kinds of retainers and that in one kind
11 the client makes a payment which the lawyer keeps
12 irrespective of the amount of work done?

13 A Yes.

14 Q And in another kind of retainer the client
15 makes a payment which is essentially put into an
16 escrow fund upon which the attorney can draw for
17 services rendered?

18 A Yes.

19 Q Are you aware of which type of retainer
20 this was?

21 A Yes, this was one where it was billed
22 against. So I mean to the against that we didn't

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1 send them enough work to use up all of the money that
2 had been put on retainer it would be refunded to us.

3 Q So just to be --

4 A The second type that you talked about.

5 Q So just to be clear, the Rose Law Firm
6 wasn't receiving a payment for no work, it was
7 receiving money to be credited against future work?

8 A Well, yeah, it's a matter of semantics from
9 my vantage point. I knew they weren't going to get
10 any future work. I wasn't giving them any work and
11 so I just was trying to get someone to explain the
12 rationale of if we're not going to be sending them
13 any further work, shouldn't we end the retainer
14 agreement.

15 Q But the bottom line is that the Rose Law
16 Firm wasn't going to be able to keep any of that
17 money unless they actually performed work for it;
18 isn't that correct?

19 A That's true.

20 Q And at some point are you aware that the
21 Rose Law Firm, in fact, returned excess retainer
22 funds to Madison?

1 A Yes.

2 Q So was any harm done by the fact that the
3 retention was continued for a brief period?

4 A No. I mean, there was no harm. I -- just
5 in the financial situation Madison was in, I didn't
6 see the necessity of sending \$2000 a month to draw
7 interest in someone else's bank account. And that's,
8 that was the only concern I had about it.

9 Q You indicated that you worked primarily
10 with Mr. Massey when you worked with the Rose Law
11 Firm?

12 A Yes.

13 Q Do you recall ever working with
14 Mrs. Clinton?

15 A No.

16 Q Would you characterize Mr. Massey as the
17 principal Rose Law Firm attorney who was representing
18 Madison?

19 A In my opinion, he was, yes. But he was the
20 only one I had any dealings with.

21 Q Are you aware of any material dealings with
22 any other Rose Law Firm lawyer on behalf of Madison,

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1 whether you had those dealings or anyone else did?

2 A Not to my knowledge, no.

3 MR. PORTNOY: If you'll give me just one
4 more minute more, Ms. Hays, I believe I'm ready to
5 call it an afternoon.

6 (Pause.)

7 BY MR. PORTNOY:

8 Q Ms. Hays?

9 A Yes.

10 Q Mr. Hopkins was extremely angry when you
11 saw him?

12 A Yes.

13 Q And again, you said there were, I believe
14 your exact words were "hard feelings" over the
15 conduct of the bankruptcy litigation?

16 A That's right.

17 Q Was it your view that he was trying to
18 strike out at someone, either at you or at the
19 Mitchell firm?

20 A Sure.

21 Q So he was looking for some kind of payback
22 or almost vengeance for what he considered to have

1 been an injury done to him?

2 A Yes, that's -- yes.

3 MR. PORTNOY: That's all I have. Thank you
4 very much for your time.

5 MR. BARTOLOMUCCI: Ms. Hays, I've got maybe
6 about five or 10 minutes worth of redirect. I just
7 want to offer you a chance for a break or would you
8 rather just go and push through it?

9 THE WITNESS: I'd rather go, but my lawyer
10 would rather break. So I guess we'll break.

11 MR. BARTOLOMUCCI: Okay. We'll follow the
12 advice of your counsel.

13 (Recess.)

14 EXAMINATION

15 BY MR. BARTOLOMUCCI:

16 Q Ms. Hays, do you remember Greg Hopkins
17 saying anything which is not reflected in the Lance
18 Miller memo?

19 A No.

20 Q One thing I haven't asked you is what you
21 said to Greg during this conversation, and we've
22 talked a lot about what he said. What did you say to

1 him?

2 A I don't think I got a chance to do a lot of
3 talking. I think I was listening.

4 Q Because he was shouting and --

5 A Yes.

6 Q You listened?

7 A I listened.

8 Q You don't recall saying anything to him?

9 A I don't recall. I don't know what I might
10 have said to him. I don't remember anything. I'm
11 sure I said something, but I'm not sure what it would
12 have been.

13 Q Do you recall how the conversation ended,
14 how he left the room?

15 A I really don't.

16 Q Subsequent to that conversation, have you
17 ever talked to Greg Hopkins again about these
18 matters?

19 A Yes, I have.

20 Q When would that have been?

21 A Sometime after Bill Simmons showed up at my
22 house with that -- with the Lance Miller memo. I was

1 eating lunch one day at a restaurant and Greg
2 happened to be in there and he either came over to my
3 table or I went over to his table and we chatted for
4 just a moment about the fact that this reporter had
5 interviewed us. And Greg had a real -- I mean, Bill
6 Simmons is kind of, he can kind of -- he's tenacious
7 and I don't think that Greg cared for how Bill tried
8 to get him to talk about the memo. And he wanted to
9 know what I had said and I said, you know, just what
10 you read in the newspaper.

11 Q And what was that?

12 A I think that what I said was I thought a
13 lot of it was posturing that he was doing on behalf
14 of the litigation and that I believed also that there
15 could also be some truth to some of what he said. I
16 had a mixed reaction to it.

17 Q Did he say anything about the truth of the
18 allegations?

19 A No. Well, he said you're right, I was just
20 posturing. I mean, he didn't deny that we ever had
21 the conversation, if that's what you're getting at.
22 I mean, he knows we had the conversation. He's never

1 tried to, you know, get me to think that I was
2 imagining things. He just said yeah, I was just, you
3 know, blowing smoke.

4 Q So in this conversation you had subsequent
5 to Bill Simmons talking to you, Mr. Hopkins did
6 indicate to you that he remembered having the
7 conversation with you?

8 A Yes.

9 Q He didn't deny it?

10 A No, sir.

11 Q Again, did he say anything about whether he
12 had been telling the truth in what he had said?

13 A We just really talked for just a moment or
14 two. It was shortly after that, the newspaper
15 article came out, I think. And I mean, it's funny
16 because up until then I don't think I hardly ever ran
17 into Greg. And now probably every other week when
18 I'm out at lunch somewhere I'll see him across the
19 room and wave at him. But he just happened to
20 stop -- either he stopped by my table or I stopped by
21 his table and we just sort of commiserated with each
22 other by being bugged by reporters and what have you.

1 Q Is that the only time you've talked to him
2 about this matter?

3 A Yes.

4 Q I just want to be absolutely clear about
5 this. Around July of 1995 when you talked to
6 Mr. Hopkins --

7 A Mr. Simmons.

8 Q Okay. But then subsequently you talked to
9 Mr. Hopkins?

10 A Yes, but I don't know that it was in July.
11 But it was sometime thereafter. It may have still
12 been July, but I don't want to say -- I mean, I can't
13 tell you for certain.

14 Q Okay. Was it within a month or so?

15 A Yeah, I would --

16 Q A few weeks?

17 A It was sometime after the newspaper article
18 came out and not a long time after, but some period
19 of time and I really just can't tell you how long.

20 Q Okay. So is it fair to say it was the late
21 summer or early fall of 1995?

22 A I think that would be accurate, yes.

1 MR. BARTOLOMUCCI: Let's go off the record
2 for just a second.

3 (Discussion off the record.)

4 BY MR. BARTOLOMUCCI:

5 Q I'm sorry to have to cover this ground
6 again, but this conversation with Greg Hopkins was,
7 is it safe to say in the late summer or early fall of
8 '95?

9 A Yes.

10 Q And just to be absolutely clear, at that
11 conversation Greg indicated to you very clearly that
12 he remembered the conversation?

13 A Greg and I discussed that Mr. Simmons had
14 paid us both a visit about it and we briefly
15 discussed what we had said to him. And in those
16 discussions Greg did not deny that we had ever had
17 the conversation and in fact said you're right, I was
18 just posturing. It was nothing. Words to that
19 effect. That's not a direct quote. I do remember
20 him using the word "posturing" because I had used it.

21 Q Was there any doubt in your mind based upon
22 that 1995 conversation with Mr. Hopkins that he

1 remembered the 1987 conversation with you?

2 A He remembered it. I don't know in how much
3 detail he remembered it, but he certainly did not
4 deny that it ever took place.

5 Q Now, when you told Mr. Portnoy earlier that
6 you thought Mr. Hopkins was posturing?

7 A Yes.

8 Q It's not your testimony, however, that you
9 thought that -- let me start over.

10 You're not saying, however, that you didn't
11 believe him when he said those things?

12 A I said I had a mixed reaction to it. I
13 thought part of it, just based on what I knew about
14 McDougals and their cronies, that it was certainly
15 possible that there could be some truth in what he
16 said. Another part of me also had been present at
17 that bankruptcy hearing and I knew that there was
18 some real bad blood going on over the remarks that
19 Lance Miller had made, and so I took it with a grain
20 of salt. But I believed there to be some truth, but
21 I didn't know how much, and I also believed Greg to
22 be letting off some steam and trying to intimidate me

1 a little bit to gain an advantage for his client.

2 Q I guess the point I was trying to make is
3 that by posturing you didn't mean to say you thought
4 he was lying?

5 A No, no. I mean, I do it, but I don't have
6 it down to the art that Greg does. But I mean, you
7 try to bluff your way a little bit when you're in
8 litigation. Try to make the other side think you
9 know something or, you know, I don't know how to
10 explain it any better than that. And I think he was
11 doing a little bit of that, just a little bit of
12 intimidating.

13 Q Now, based on your experience with this
14 sort of thing happening in litigation, do you think
15 it's effective to try to posture based upon
16 allegations which are completely untrue?

17 A No. I will tell you that it doesn't work
18 very well for women at all so I don't do very much of
19 it. At least in the South. It may work great where
20 you are, but down here they like the female attorneys
21 to be ladies, so I don't engage in much of that
22 myself. But, you know, I have bluffed a little bit

1 from time to time.

2 Q But would you agree with me that if one is
3 to pursue this tactic of the sort you thought Greg
4 might be engaged in that you'd want to be raising
5 allegations that had a kernel of truth?

6 A I'm sorry. I don't really follow the
7 question.

8 Q Okay. We'll just strike it.

9 A I thought he was telling the truth to some
10 degree, but I didn't know any specifics. I thought
11 there was some truth in what he was shouting at me,
12 but I didn't know what of it was truth and what of it
13 wasn't.

14 Q Now, that part of the Miller memo
15 reflecting your conversation with Hopkins that said
16 in return for the substantial campaign contribution
17 Bill Clinton assured McDougal that Madison would get
18 lease space. Now that's an allegation about
19 something that Bill Clinton himself was involved in;
20 right?

21 A As reflected in Lance's memo. And I don't
22 know if that's accurate or if that was just Lance's

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1 interpretation of what I told him.

2 Q Well, I mean is that --

3 A I don't remember the specific -- I remember
4 Greg saying something about well, there was the lease
5 arrangement and that kind of thing, but I don't
6 remember specifically that he said Bill Clinton was
7 involved in it.

8 Q Okay. But the Miller memo does reflect the
9 Bill Clinton campaign?

10 A Yes, it does.

11 Q Are you saying you don't remember Hopkins
12 mentioning the Bill Clinton campaign?

13 A Oh, no. I remember him mentioning the
14 campaign. I thought you were saying that as I read
15 the memo Bill Clinton himself, separate and apart
16 from the campaign, assured Jim McDougal a state
17 agency would lease space.

18 Q Right. And on that point, is that -- do
19 you remember Hopkins saying that?

20 A No, I don't remember that exactly. I
21 remember the discussion about the lease arrangement,
22 but I don't know that he in particular told me that

- 1 it was Bill Clinton himself.
2 Q But he might well have?
3 A Anything is possible, and I just, I'm
4 sorry, I can remember a lot of things, but 1987 and
5 every little detail I just can't come up with it.
6 I'm really trying to do the best I can.
7 Q Okay. Just a little bit more on the letter
8 you wrote to Marcy Taylor where it says "no one here
9 knows anything about it." You know we've talked
10 about that before?
11 A Yes.
12 Q Now, by May of '87 you had already left
13 Madison; right?
14 A Yes, sometime during May.
15 Q So you weren't there very long after this
16 conversation with Hopkins?
17 A No.
18 Q And McDougal was already gone from Madison?
19 A Correct.
20 Q And Peacock was no longer a director?
21 A That's right.
22 Q And I take it you never spoke to either of
-

- 1 them about this?
2 A No, I didn't.
3 Q And you've never spoken to Bill Clinton
4 about it?
5 A No. No, I haven't.
6 Q Apart from ADFA, was there any other state
7 agency leasing space at Madison's headquarters
8 itself?
9 A No.
10 Q And you don't know how ADFA -- you weren't
11 involved in ADFA's obtaining that lease; right?
12 A That's correct. It was before I came to
13 Madison as I recall.
14 Q Now just a last issue on the retainer.
15 A Yes.
16 Q You said you knew that Rose wasn't going to
17 get any future work?
18 A Right.
19 Q Mr. Portnoy asked you if there was any harm
20 in paying Rose a retainer when you knew they weren't
21 going to get any more work. And it would have been
22 up to -- you would have made the decision whether to

1 give them more work?

2 A Well, I was the one directing the legal
3 work, but that's certainly not to say that John
4 Latham couldn't have had something come up that was
5 not involved with the lending end, you know,
6 something where he wanted some other type of advice
7 that he might have called on someone at the Rose
8 Firm. So perhaps I sort of misspoke about what my
9 role was there. I was sending out the legal work for
10 collections, foreclosures, bankruptcies,
11 repossessions. I knew I wasn't sending any of that
12 to the Rose Firm.

13 Q And --

14 A And I didn't know of any other work that
15 they were doing.

16 Q And am I right that if Rose wasn't getting
17 that retainer money that Madison could have put it to
18 some other use?

19 A I would think so.

20 Q So it's not entirely true that no harm was
21 done?

22 A Well, I mean that would be a matter of

1 interpretation.

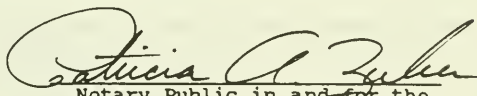
2 MR. BARTOLOMUCCI: Right. I think that's
3 all I have for you. We're done.

4 (Whereupon, at 2:05 p.m., the deposition
5 was concluded.)
6
7

8 PATRICIA J. HAYS
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, PATRICIA A. ZUBER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 14, 2000

**DEPOSITION OF PATSY L. THOMASSON
IN RE: S. RES. 120**

FRIDAY, FEBRUARY 23, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of PATSY L. THOMASSON, called for examination pursuant to notice of deposition, at 12:15 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMON-SKEY, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.

Majority Associate Special Counsel

LANCE COLE, Esq.

Minority Deputy Special Counsel

MITCHELL FEUER, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

DAVID H. WILLIAMS, Esq.

350 Gans Building

217 West Second Street

Little Rock, Arkansas 72201

On behalf of the Deponent.

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P R O C E E D I N G S

MR. O'CALLAGHAN: Good afternoon, Ms. Thomasson. My name is Michael O'Callaghan. I am associate special counsel for the Majority Special Committee. To my left is Mitchell Feuer and Lance Cole, both members of the Minority Committee.

This deposition is being conducted pursuant to Senate Resolution 120. The Resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation, Madison Guaranty Savings & Loan Association, Capital Management Services, Incorporated, bond underwriter contracts between Lasater & Company and the Arkansas Development Finance Authority and other related matters.

This deposition is in advance of public hearings which will likely occur later this month. I will ask you a series of questions today and ask you to testify under oath. If you don't understand a question, please let any of the attorneys on the Minority or Majority know and we will be happy to

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rephrase them for you. If you need a break, need to confer with counsel, let us know.

The stenographer is preparing a record of questions and answers. The deposition will be treated as committee confidential until the commencement of hearings.

Prior to the hearings you will be given a chance to review your deposition and be provided with an errata sheet to make note of any corrections for transcription. If you are called to testify at the public hearing, you will also have a chance to review the deposition prior to the hearing.

You may be represented by counsel today. Are you represented by counsel?

THE WITNESS: Yes, I am.

MR. O'CALLAGHAN: Counsel, please state your name and the name of your firm for the record.

MR. WILLIAMS: David H. Williams, Williams Law Firm, Little Rock, Arkansas.

MR. O'CALLAGHAN: Objections to the form of questions today will be noted for the record.

Counsel may object on grounds of privilege or

1 relevance and the Committee Chairman may rule on
2 objections where the witness refuses to answer a
3 question.

4 Could you please swear the witness in.
5 Whereupon,

6 PATSY L. THOMASSON
7 was called as a witness and, having first been duly
8 sworn, was examined and testified as follows:

9 MR. O'CALLAGHAN: Counsel, you indicated
10 earlier you would like to make a statement for the
11 record.

12 MR. WILLIAMS: Yes, I would. When I was
13 first contacted about having Patsy come to this
14 deposition, I asked and was told that the subject
15 matter was the bond underwriting contracts between
16 the Arkansas Development Finance Authority and
17 Lasater & Company, which is section F of the
18 Resolution. I will see exactly where that is.

19 MR. O'CALLAGHAN: 1(b)(3)(F).

20 MR. WILLIAMS: It is on page 5.

21 MR. O'CALLAGHAN: It is 1(b)(3)(F).

22 MR. WILLIAMS: Okay. And I explained that

1 Ms. Thomasson didn't have any knowledge regarding
2 those ADFA bond underwriting contracts, that she was
3 in administration at Lasater.

4 I was told, well, there are some documents
5 that counsel may want to show her to jog her memory,
6 and I said that's fine, maybe there is some way that
7 we can review those documents, because I really doubt
8 that it is going to be helpful, and I explained that
9 it was really going to put my client to a great deal
10 of burden and expense to have a deposition over some
11 information and material that she really had
12 basically little knowledge and asked if we could do a
13 telephone deposition but was told that we needed to
14 come up here and do this.

15 Graciously counsel agreed to provide my
16 plane fare up here at government cost which would be
17 reimbursed. However, this morning at 10:00 I am told
18 for the very first time that the deposition is going
19 to go into areas other than the bond underwriting
20 contracts, and that leaves me probably 30 minutes to
21 visit with my client about those matters, which is
22 woefully inadequate time to prepare her for anything

1 else that she might be asked about.

2 I know Senator Faircloth was wanting to ask
3 questions about what I call the cocaine questions
4 when Ms. Thomasson last appeared, which was her only
5 appearance before the Committee, which I fail to see
6 the relevance of all of that.

7 MR. COLE: Just to be clear on one point,
8 Mr. Williams. The discussions you just referenced
9 were with the Majority staff, I take it, because I
10 have had no such discussions with you.

11 MR. WILLIAMS: Correct, with Majority
12 staff.

13 I have an ethical obligation to prepare
14 Patsy for the deposition, and I have been unable to
15 do that.

16 Sometimes lawyers think that it is a better
17 practice to be vague about what a deposition is going
18 to cover. Sometimes they think it is a better
19 practice just not to tell at all or to mislead or be
20 deceptive.

21 I am not making any charges that there has
22 been any misleading or deception going on here, I'm

1 just saying in order to have a good deposition and
2 get the information that you want, it is a better
3 practice for the other side to be able to have a
4 general idea of the subject matter so that the
5 witness can be properly prepared and I can do my
6 job.

7 So, today I don't know how Patsy is going
8 to be prepared to answer questions on these other
9 areas. She will do the very best that she can. But
10 if there is any problem with that, it is going to be
11 because I wasn't given advance notice and an
12 opportunity to prepare.

13 MR. O'CALLAGHAN: I would like to apologize
14 for any misunderstanding that occurred. You and I
15 haven't spoken before. My understanding was the
16 conversation you had I believe was with Mr. Brenner
17 of the Majority staff.

18 MR. WILLIAMS: Right.

19 MR. O'CALLAGHAN: He related to you that a
20 major focus of the deposition would be the section of
21 the Resolution which we just referred to, I believe
22 1(b)(3)(F), which is a portion of the Resolution

1 which authorizes the staff to conduct an
2 investigation and public hearings into and study of
3 all matters that have any tendency to reveal the full
4 facts about the bond underwriting contracts between
5 Arkansas Development Finance Authority and Lasater &
6 Company.

7 In addition, it is my understanding that
8 Mr. Brenner also informed you that there may be other
9 portions or other subject matters covered by Senate
10 Resolution 120 that we also intended to possibly ask
11 some questions about. I don't believe -- I was told
12 that the scope wasn't limited specifically to that
13 portion of the Resolution. As a general practice, we
14 don't do that.

15 MR. WILLIAMS: I realize that that might
16 not be done as a general practice, but I am stating
17 as a matter of fact that not until 9:52 a.m. this
18 morning, when Mark called my hotel room, was there
19 any mention that anything other than the ADFA bond
20 underwriting contracts were going to be covered in
21 this deposition.

22 As a matter of fact, I went to extra

1 precautions to make sure that that's all it was.
2 From now on, I'm going to write a letter confirming
3 the conversation.

4 I don't think Mark Brenner had any
5 intention to mislead or deceive me. But I am saying
6 that he did not tell me that the bond underwriting
7 contracts between ADFA and Lasater & Company were the
8 primary focus. He said it was the only focus;
9 nothing else was mentioned. So, we are going to do
10 the best we can.

11 MR. O'CALLAGHAN: I apologize for any
12 misunderstanding that may have occurred. I realize
13 you can only testify to what you know about and the
14 best of your ability and whatever you have been able
15 to prepare for for today.

16 MR. COLE: One thing I might suggest -- I
17 am very sympathetic to your situation,
18 Mr. Williams -- is that whenever it is at all
19 helpful, we will give you an opportunity, let you go
20 off the record and consult privately with your
21 client, which I know is no substitute for adequate
22 preparation in advance. That is one thing we can try

1 to do.

2 Also, I think, unfortunately, the situation
3 will be complicated somewhat by the fact that there
4 is not 100 percent agreement between the Majority and
5 the Minority as to what is within the scope of this
6 Resolution with regard to the bond underwriting
7 contracts between Lasater & Company and the Arkansas
8 Development Finance Authority, and there will be
9 times today, I would expect, where there would be
10 some discussion of what is or is not within the scope
11 of the Resolution.

12 I think you may be disadvantaged somewhat
13 by not having the time to discuss with your client.
14 We will perhaps go off the record and try to clarify
15 things where we can.

16 MR. O'CALLAGHAN: I'm open to any kind of
17 discussion we can have to iron out any differences we
18 have and make this as cooperative an effort as
19 possible.

20 MR. WILLIAMS: We want to do that.

21 MR. O'CALLAGHAN: It is merely a
22 factfinding operation. Hopefully we can all work

12

1 together and get that accomplished.

2 MR. WILLIAMS: Thank you.

3 MR. O'CALLAGHAN: Also for the record, for
4 your information, which I don't know if Mr. Brenner
5 related this to you either because I wasn't party to
6 the conversation, but the Majority and Minority have
7 also had discussions and it has been agreed that also
8 within the scope of the Resolution is the bond
9 underwriting contract between Lasater & Company and
10 the Arkansas State Police Commission.

11 It was an underwriting in 1985 which
12 involved issuance of bonds to finance a new Police
13 State radio system.

14 MR. WILLIAMS: I understood that that was
15 included under this section.

16 MR. COLE: Just to be perfectly clear, my
17 understanding is the Majority is taking the position
18 that that is within the scope and the Minority, while
19 perhaps not agreeing that is what was intended when
20 the Resolution was drafted, has chosen not to make an
21 issue of that and has not objected.

22 There was a question in the drafting of

1 this Resolution whether that was intended to be
2 included.

3 In order to expedite this and try to move
4 forward, the Minority has not made an issue of that
5 and we do not intend to do so today. That's my
6 understanding on the background on that.

7 MR. O'CALLAGHAN: Thank you, Mr. Cole.

8 Now that the lawyers have finished talking,
9 why don't we get moving here.

10 EXAMINATION

11 BY MR. O'CALLAGHAN:

12 Q Please state and spell your full name for
13 the record.

14 A My name is Patsy L. Thomasson, P-a-t-s-y,
15 middle initial L as in Lee, T-h-o-m-a-s-s-o-n.

16 Q Did you speak to anyone other than your
17 counsel prior to this deposition about the
18 deposition?

19 A No, I did not, other than to say that I was
20 going to be out today and tell my boss I was going to
21 be out today to go to the Hill and give a
22 deposition.

14

1 Q Have you spoken to anyone else who has
2 appeared before the Committee, has been deposed on
3 the issue of the bond underwriting contracts between
4 Lasater & Company and Arkansas Development Finance
5 Authority or the Arkansas State Police Commission?

6 A Are you asking me if I have talked to
7 anybody about the content of their deposition when
8 they came up here?

9 Q The first question was whether you talked
10 to anyone who has been in deposition.

11 A I have talked to Bob Nash. He is my boss.
12 I talk to him every day.

13 Q Did you discuss the contents of his
14 deposition with him?

15 A No, I did not.

16 Q Did you engage in any preparation for this
17 deposition?

18 A A conference with my attorney this morning
19 for about 35, 40 minutes.

20 Q Other than that?

21 A No, I did not.

22

1
2 Q Your present business address?

3 A Room 154, Old Executive Office Building,
4 Washington, D.C. 20502.

5 Q What is your present position?

6 A I am deputy assistant to the President and
7 deputy director of White House personnel,
8 Presidential personnel.

9 Q How long have you been in that position?

10 A Since May of last year, May of '95.

11 Q What did you do before that?

12 A I was a special assistant to the President
13 for management administration and director of the
14 office of administration.

15 Q And during what time period did you hold
16 that position?

17 A From March 1 of 1993 until May of '95.

18 Q Prior to that, what did you do?

19 A I was executive director of the Arkansas
20 Democratic party.

21 Q During what time period did you hold that
22 position?

1 A From August of '92 through February of
2 '93.

3 Q This might be easier, I would like to get
4 an idea what your employment history has been since
5 1982. Could you give me a brief overview of what you
6 did between 1982 and August of 1992.

7 A Let me say that my employment history is on
8 the record with the Senate Appropriations Committee,
9 the subcommittee that Senator D'Amato is on. I would
10 be glad to for you to check that record today.

11 I would be glad to tell you that in 1982 I
12 was employed by myself by a company that I owned and
13 operated called Southern Management Association.

14 Q What type of business was that?

15 A Hospital/nursing home management. And in
16 June of 1983, I went to work for Lasater & Company.
17 It was then known as Collins, Locke & Lasater, Inc.
18 I worked for them until the fall of 1983. Sometime
19 in the month of November I went to work for Dan
20 Lasater personally.

21 Subsequent to that, I became an employee of
22 a company owned by Mr. Lasater's children named LFI

1 Corporation. Subsequent to that I became an employee
2 of Lasater, Inc., and I worked for Lasater, Inc.
3 until August of -- July of '92.

4 Q When you were employed by Collins, Locke &
5 Lasater -- and I gather that became Lasater & Company
6 while you were working there?

7 A It did.

8 Q What position did you hold?

9 A I never had a title.

10 Q What were your responsibilities?

11 A I reported directly to the chairman of the
12 board, Dan Lasater. I was his eyes and ears.

13 Q What type of work did you do?

14 A Administrative-type stuff, helping control
15 costs, helping to control expenses, where we were
16 spending money, how could we save money, everything
17 from checking who was giving what kind of tips and
18 things that were to be reimbursed and what kind of
19 phone system did he have, what kind of health care
20 system did he have.

21 Q Is that the work you did the whole time you
22 were working there?

18

1 A I was only there from June 1st through
2 sometime in November. That's the only time I worked
3 for the investment banking firm.

4 Q That's what you did when you were there?

5 A Yes.

6 Q When you went to work for Mr. Lasater
7 personally, what did you do for him?

8 A I was an administrative assistant. I did
9 everything from work on the sale of horses to
10 managing real estate, from farm real estate to
11 commercial real estate, whatever needed to be done I
12 did. I was very much a generalist.

13 Q When you were working for Mr. Lasater in
14 this personal capacity, did you continue to take on
15 tasks that involved Lasater & Company?

16 A I did not.

17 Q So there was no overlap at all?

18 A Generally, no. He might call me in, just
19 the two of us, and he would say, here is something we
20 are looking at, what is your thought, I would give
21 him my thoughts and that would be the extent of it.

22 Q Did you work out of an office during that

1 time period?

2 A From June of '93 until the time I left
3 Lasater & Company I did not have an assigned office
4 space. I was using whatever desk was available on a
5 given day.

6 Q Was that at the Lasater & Company office
7 space?

8 A Yes.

9 Q Where was that located?

10 A It was located at 312 Louisiana.

11 Q How about after you ceased working for
12 Lasater & Company? Where did you work out of?

13 A We had offices at on East 9th Street at the
14 Quapaw Tower. We were there about six months.
15 During that period of time we redid space and located
16 into 312 Louisiana in probably May of '84.

17 Q Do you know who rented the space in the
18 Quapaw Tower?

19 A Mr. Lasater did.

20 Q It was in his name?

21 A I don't know whose name it was in.

22 Q Do you know if it was in the company's

20

1 name?

2 A I don't recall.

3 Q When you worked for LFI and Lasater, Inc.,
4 from May 1984 on, were you in the Louisiana -- 312
5 Louisiana address?

6 A We were on the third floor of 312 Louisiana
7 until July of '87, July or August of '87. We moved
8 to 1320 Brookwood in Little Rock. And then at some
9 point, and I don't recall the date, but at some point
10 we moved back to 312 Louisiana. The building was
11 empty. It belonged to LFI. We moved back there.

12 Q Again, when you -- when did you actually
13 begin working for LFI? Do you remember the date or
14 approximate date?

15 A Sometime either in late '83 or early '84 I
16 would have gone to payroll at LFI.

17 Q Have you already described the type of work
18 you did there? Did you have other responsibilities
19 at LFI?

20 A Same type, administrative-type stuff.

21 Q How about when you were working for
22 Lasater, Inc.?

1 A Administrative.

2 Q When did that begin?

3 A I can't tell you when I went off the
4 payroll of LFI and went on the payroll of Lasater,
5 Inc. Sometime in '84, I'm going to guess. But that
6 is strictly an approximation.

7 Q It is all within a pretty narrow time
8 frame, the LFI and the Lasater, Inc. You were with
9 LFI for a short time, you think?

10 A I think it was sometime in 1984 that I
11 switched to the Lasater, Inc. company.

12 Q During the period 1982 through 1986, did
13 you have contact with anyone in the governor's
14 office?

15 A I served on the Arkansas Highway Commission
16 from 1977 to 1987, January of 1977 to January of
17 1987. I had contact with a lot of people in the
18 governor's office as well as in the capital.

19 Q Who appointed you to the Highway
20 Commission?

21 A Senator David Pryor, who was then Governor
22 David Pryor.

1 Q Between 1982 and 1986, did you have any
2 contacts in the governor's office with anyone on
3 behalf of either Mr. Lasater or any of LFI, Lasater,
4 Inc. or Lasater & Company, Collins, Locke & Lasater?

5 A I don't recall having any contact with the
6 governor's office about Lasater & Company or Lasater,
7 Inc. either.

8 Q Any contact on behalf of Mr. Lasater at the
9 governor's office?

10 A I could have certainly called to get an
11 appointment for Mr. Lasater with the governor's
12 office, or I could have been called by the governor's
13 office and have to return a call to the governor's
14 office for Mr. Lasater. I certainly probably did. I
15 don't remember specifically. It is a long time, four
16 years.

17 Q Do you recall approximately how many times
18 you may have called the governor's office or the
19 Governor's staff or for that matter the Governor to
20 arrange on behalf of Mr. Lasater?

21 MR. COLE: A lot of questions in that one.

22 MR. WILLIAMS: That will be tough to

1 remember too.

2 BY MR. O'CALLAGHAN:

3 Q Between 1982 and '86, do you remember how
4 many times you called the governor's office on behalf
5 of Mr. Lasater?

6 A I have no recollection.

7 Q Do you know if it was more than once?

8 A I don't recall.

9 Q Do you recall at least once?

10 A I'm telling you I probably did call at
11 least once, but I don't know how many times I
12 called. It was not an often thing.

13 Q I understand it was a long time ago, but
14 part of my job is to try to help you remember things
15 that happened a long time ago. I beg your patience
16 if it seems like I'm asking silly questions.

17 Do you know if it was more than once a
18 year?

19 A I don't recall.

20 Q Do you have any recollection of what the
21 subject matter of any of the calls that you made to
22 the governor's office were on behalf of Mr. Lasater?

24

1 A I don't recall.

2 Q Did you ever speak with Betsey Wright in
3 the governor's office with regard to any matters
4 involving Mr. Lasater?

5 A I don't recall having spoken to Betsey
6 about anything.

7 Q Any matters involving any of Mr. Lasater's
8 companies?

9 A I don't recall having talked with Betsey
10 about Mr. Lasater.

11 Q I'm sorry. Any conversations about his
12 companies?

13 A About his companies either.

14 Q Ever speak to Bob Nash on behalf of
15 Mr. Lasater?

16 A I don't recall having talked to Bob Nash
17 about Mr. Lasater.

18 Q Any conversation with Bob Nash about any of
19 the Lasater companies?

20 A I don't recall having talked to Mr. Nash
21 about any of Lasater's companies.

22 Q Did you speak to Sam Bratton about -- did

1 you speak with Sam Bratton on behalf of Mr. Lasater?

2 A I don't recall having talked to Sam about
3 Mr. Lasater.

4 Q Just so the record is clear, did you have
5 any conversations with Mr. Bratton on matters -- when
6 you were calling him on behalf of Mr. Lasater?

7 A I don't remember having a business
8 conversation at all with Mr. Bratton.

9 MR. WILLIAMS: Are we still in the '82 to
10 '86 deal?

11 MR. O'CALLAGHAN: Yes. If we leave that
12 time period, I will let you know.

13 BY MR. O'CALLAGHAN:

14 Q I want to make sure we are clear on the
15 record. Your answers are somewhat different from the
16 questions that I'm posing. I asked you if you had
17 any conversations with Mr. Bratton that you made on
18 behalf of Mr. Lasater.

19 A I told you no.

20 Q Any conversations with Mr. Bratton with
21 regard to any issues involving Lasater companies?

22 A I think I said specifically that I don't

1 recall having had a business conversation with
2 Mr. Bratton or a conversation with Mr. Bratton about
3 any business whatsoever.

4 Q Did you have any conversations with Maurice
5 Smith about any issues involving Mr. Lasater?

6 A If Mr. Lasater wanted to come in for an
7 appointment with the Governor, I might have called
8 Maurice with regard to that subject matter.

9 Q Would you have called anyone else with
10 regard to appointments?

11 A The Governor's appointment secretary at the
12 time, whoever it was.

13 Q Do you recall who that was at the time?

14 A I don't recall who that was at the time.

15 Q Do you recall specifically speaking with
16 Mr. Smith during that time period with regard to
17 Mr. Lasater, issues affecting Mr. Lasater?

18 A I recall talking to Mr. Smith a lot of
19 times. I don't specifically remember any
20 conversations that we had with regard to
21 Mr. Lasater's investment business and Mr. Smith.

22 Mr. Smith was also in the horse racing

1 business. Mr. Lasater was in the horse racing
2 business. I could have certainly had a conversation
3 with Mr. Smith regarding Mr. Lasater's horse racing
4 business, and probably did.

5 Q Did you have any conversations with
6 Mr. Smith or make any phone calls -- have any
7 communications with Mr. Smith regarding appointments
8 to state boards?

9 A I don't recall having conversations with
10 Mr. Smith about state board appointments.

11 Q Did you have conversations with anyone --
12 again, this is the same time period -- anyone in the
13 governor's office about appointments to state boards?

14 A I don't recall that. I don't recall that.

15 Q Did you have any conversations with
16 Governor Clinton with regard to state boards, other
17 than the Highway Commission?

18 A I don't recall having any conversations
19 with the Governor with regard to appointments he
20 would be making to state boards and commissions.

21 Q Any conversations with regard to
22 recommendations being made by Mr. Lasater to state

28

1 boards?

2 A I don't recall that directly with the
3 Governor. I have no recollection of that.

4 Q Did Mr. Lasater have any conversations with
5 the Governor with regard to appointments to state
6 boards?

7 A I don't know the answer to that.

8 Q You don't know?

9 A You would have to ask Mr. Lasater.

10 Q You don't have any knowledge of that?

11 A I don't have any knowledge of that.

12 Q Did he ever tell you that he did?

13 A I don't recall that.

14 Q Did Mr. Lasater have any conversations with
15 anybody in the governor's office with regard to state
16 board appointments that you know of?

17 A I don't know. You would have to ask
18 Mr. Lasater that.

19 Q He never told you that either?

20 A I don't remember.

21 Q Did Mr. Lasater ever make any
22 recommendations for state board appointments during

1 the same time period, that you know of?

2 A I don't recall that he did that, but he
3 certainly had a right to do that. If he did, I'm
4 sure the Governor weighed that along with everything
5 else he had to make decisions on.

6 Q Did you have any conversations with
7 Mr. Lasater -- did you have any communications with
8 Mr. Lasater with regard to his thoughts about who he
9 would like to recommend to different state boards?

10 A Mr. Lasater and I talked about a lot of
11 things, and he certainly could have expressed to me
12 his desire to have some specific person on the ADFA
13 board. I don't recall specifically who it was or if
14 he talked to me about it. But he certainly could
15 have talked to me about that.

16 Q You don't have any specific recollection of
17 any conversations?

18 A I don't have a specific recollection.

19 Q I would like to show you and your counsel a
20 one-page document bearing Bates stamp DKSJN 027588.
21 It is on Lasater, Inc. letterhead dated April 3,
22 1985. It is addressed to the Honorable Bill Clinton

30

1 and it is signed Patsy L. Thomasson, special
2 assistant to the chairman. Then it has a cc to Dan
3 R. Lasater. Take a moment to review that. Let me
4 know when you have had a chance to read the
5 document.

6 (Witness examined the document.)

7 BY MR. O'CALLAGHAN:

8 Q My first question is, have you seen this
9 document before?

10 A Yes.

11 Q Is that your signature that appears on the
12 bottom of the page?

13 A Yes, it is.

14 Q Did you write this letter?

15 A I signed it. I'm sure I wrote it.

16 Q Do you recall sending this letter to the
17 Governor in 1985 with regard to discussions of
18 possible appointments to the ADFA board to the
19 Governor?

20 A I remember this letter now. I don't recall
21 having written it, no.

22 Q Did you -- do you know if you wrote any

1 other letters to the Governor with regard to
2 recommending people for board appointments?

3 A I don't recall.

4 Q Did Mr. Lasater ask you to write this
5 letter?

6 A Yes, he did.

7 Q Does this refresh your recollection about
8 any specific conversations you had with Mr. Lasater
9 with regard to people he was considering to recommend
10 to the ADFA board?

11 A Specifically in this letter it said that
12 "You and Dan," being the Governor and Dan, "have
13 discussed the Don Spears appointment with the
14 Arkansas Finance and Development Agency Board."

15 And then it talks about recommending Ed
16 Willis and Jim Tom Bell for the board.

17 Q After reviewing this letter, does this
18 refresh your recollection about any knowledge you
19 have or had about Mr. Lasater's conversations with
20 the Governor with regard to possible board
21 appointments to the ADFA board?

22 A This specifically tells me I had at least a

1 conversation with Dan with regard to these three
2 people. Whether there were other people that were
3 interested with this board I don't remember.

4 Q Do you recall the contents of the
5 discussion Mr. Lasater had with the Governor with
6 regard to Don Spears' appointment to the ADFA board?

7 A I don't recall it. I don't know that I
8 ever knew what the contents of their discussion
9 were.

10 Q Did you -- do you recall if you wrote other
11 letters to the governor's office with regard to ADFA
12 board appointments?

13 A I don't recall.

14 Q Was part of your job writing correspondence
15 for Mr. Lasater?

16 A Yes, it was.

17 Q Did you write -- did you commonly write
18 letters on his behalf for his signature?

19 A Yes, I did.

20 Q I would like to show you another document
21 Bates stamped DKSJN 026479 dated January 23, 1985. It
22 is on Dan R. Lasater stationery, and it is addressed

1 to the Honorable Bill Clinton, signed "Sincerely, Dan
2 Lasater." I would like to have you take a moment to
3 review that and let me know when you have had a
4 chance to do so.

5 MR. O'CALLAGHAN: Counsel, please let me
6 know when you are finished reviewing the document.

7 (Witness examined the document.)

8 MR. WILLIAMS: Okay.

9 BY MR. O'CALLAGHAN:

10 Q Have you seen this document before?

11 A I don't recall this document.

12 Q Did you ever type letters for Mr. Lasater
13 on his personal stationery?

14 A Yes, I did.

15 Q Did Mr. Lasater type letters on his own
16 when you were working for him?

17 A No, he did not.

18 Q So this would have been typed by someone
19 else?

20 A It would have undoubtedly been typed by
21 someone else. I don't recall this letter.

22 Q If you typed it, would you have put your

1 initials on the bottom? Is that a practice that you
2 follow?

3 A Generally, yes.

4 Q This letter is dated January 23, 1985. I
5 want to direct your attention to the third paragraph
6 which reads "Members of my staff have been working
7 with Bill Woodyard and others in that firm to help
8 work out financing details to assist you in your
9 efforts to advance economic development in the
10 state. If they have failed in furnishing the
11 information you need or if you need additional
12 information, please do not hesitate to call me or
13 have Maurice call Patsy."

14 Looking at that section I just read to
15 you -- first of all, do you know who Bill Woodyard
16 is?

17 A He is a lawyer in Little Rock.

18 Q What firm was he with?

19 A Mitchell, Williams, Selig.

20 Q This paragraph seems to indicate that
21 Mr. Woodyard was doing work in relation to Lasater &
22 Company. Would you agree with that?

1 A I wouldn't agree with that, no. That's not
2 what that paragraph says to me.

3 MR. WILLIAMS: I'm going to object. If she
4 doesn't have any knowledge, then all she is doing is
5 speculating as to the meaning of the paragraph.

6 MR. O'CALLAGHAN: That's fine.

7 BY MR. O'CALLAGHAN:

8 Q The question is -- let me ask the
9 question. Were you ever contacted by Maurice Smith
10 about furnishing information related to helping work
11 out financing details to assist the Governor in his
12 efforts to advance economic development in the state?

13 A I don't remember having any conversations
14 with Maurice with regard to that.

15 Q Did Mr. Lasater -- I will withdraw that.

16 MR. COLE: Can I ask one question about
17 that?

18 MR. O'CALLAGHAN: Sure.

19 MR. COLE: I'm just looking at what the
20 letter says. It says "Do not hesitate to call me or
21 have Maurice call Patsy." Maurice is Maurice Smith,
22 who was at that time the Governor's chief of staff;

1 is that correct?

2 THE WITNESS: That's correct.

3 MR. COLE: If he had called you, as this
4 letter suggested, is it likely that call would have
5 been on matters of substance or would it more likely
6 have been a scheduling call for him to call you to
7 arrange a meeting?

8 THE WITNESS: It would have probably been
9 more like a response, like, Patsy, your firm is
10 supposed to be doing such-and-such and such-and-such,
11 we hadn't got the material you all were supposed to
12 send, would you see that it is sent. I would see
13 that it was sent. I would call Dan and say, they
14 haven't sent what they were supposed to send, would
15 you talk to them and get them to send it.

16 MR. COLE: That's helpful. I don't read
17 this as indicating you had any substantive role.

18 THE WITNESS: I had no substantive role. I
19 was a facilitator. If Maurice called me, I would
20 say, look, Dan, these guys are supposed to be doing
21 whatever and would you look into it.

22 BY MR. O'CALLAGHAN:

1 Q In your role as facilitator, if you had
2 been involved in sending the materials over to the
3 governor's office, acting in that role --

4 A Let me back up for a second. I wouldn't
5 have been a facilitator in seeing that the materials
6 were sent to the governor's office because I wasn't
7 working for the firm at that time. The firm would
8 have had the responsibility for getting that work
9 done and sending it to the governor's office, not me.

10 Q Would you have called the firm?

11 A Absolutely not. It is a very
12 male-dominated industry and they only took orders
13 from men and not from women. Mr. Lasater would have
14 had to follow up from that.

15 Q Mr. Smith would have called you and then
16 you would have told Mr. Lasater?

17 A Absolutely.

18 MR. COLE: Fortunately, things have changed
19 a little bit in the last 10 years, some places.

20 BY MR. O'CALLAGHAN:

21 Q Your recollection, you didn't do any work
22 for Lasater & Company once you left there?

1 A I don't recall having done any work for
2 Lasater & Company after I went off the payroll. That
3 is not to say that if Mr. Lasater went to New York on
4 business that I might not have gone with him and sat
5 in on a meeting with him. If he was meeting with
6 something on Lasater & Company, I might have sat in
7 on a meeting of that sort. But I didn't have any
8 substantive role.

9 Q Did you have any conversations -- again, we
10 are still in the '82-86 time period -- with
11 Mr. Lasater about Lasater & Company participating in
12 any ADFA bond issues?

13 A I'm sure Mr. Lasater and I talked about
14 Lasater & Company wanting to do that, yes.

15 Q Did you have any discussions with regard to
16 any discussions Mr. Lasater might have had with the
17 Governor with regard to Lasater & Company
18 participating in any bond issues done by ADFA?

19 A I don't recall that.

20 Q Any conversations where he related to you
21 conversations he had with the Governor's staff with
22 regard to Lasater & Company participating in ADFA

1 bond issues?

2 A I don't recall him talking to the
3 governor's office or talking to me about
4 conversations he had with the governor's office about
5 Lasater & Company being involved in ADFA business.
6 If he talked to anybody in the government about doing
7 business with ADFA, he talked to ADFA,
8 representatives with ADFA.

9 Q Were you aware of a meeting that
10 Mr. Lasater had with the Governor during the
11 1984-85 -- '83 through '85 time period where he met
12 with the Governor and requested that Lasater &
13 Company receive a greater portion of the ADFA bond
14 business?

15 A I don't recall that meeting, but it
16 certainly was something Mr. Lasater wanted to
17 happen. Everybody wanted a part of the business,
18 everybody in town.

19 Q You don't have a specific recollection of
20 him having a meeting with the Governor in the state
21 capital on that issue?

22 A I don't recall that, but that doesn't mean

1 it didn't happen. It certainly could have happened.

2 Q Have you ever heard that Lasater & Company
3 received preferential treatment with respect to
4 getting bond underwriting contracts with ADFA?

5 A Certainly there were allegations during the
6 1986 campaign, when the Governor was running for
7 reelection, that Lasater & Company had gotten
8 preferential treatment, but there was a story in the
9 Arkansas Gazette that certainly put a lid on that.

10 When you looked at the proportion of bond
11 business that had gone to all the bond companies in
12 the state, Lasater & Company didn't get any more than
13 anybody else did; in fact, it got less than most.

14 Q Independent of newspaper reports, had you
15 ever heard that?

16 MR. COLE: What is the "that"?

17 MR. O'CALLAGHAN: I will restate the
18 question.

19 Can you read back my previous question.

20 (The reporter read the record as requested.)

21 THE WITNESS: Did I get that separate from
22 the newspaper?

1 BY MR. O'CALLAGHAN:

2 Q Other than the newspapers, yes.

3 A I don't recall hearing that separate from
4 the newspapers. I know I got it from the
5 newspapers.

6 MR. COLE: Did people at Lasater & Company
7 believe they were getting preferential treatment?

8 THE WITNESS: They knew they were not
9 getting any preferential treatment.

10 MR. O'CALLAGHAN:

11 Q Are you aware of any political pressure
12 being brought to bear on ADFA to give bond
13 underwriting contracts to any specific underwriting
14 firm?

15 A I don't know what political pressure was
16 put on ADFA. I would have no way to know that.

17 Q Did anyone ever tell you that happened?

18 A That somebody put pressure on ADFA? Nobody
19 told me that.

20 Q Again, other than press accounts, have you
21 ever heard that?

22 A That somebody put pressure on ADFA to do

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1 business with their firm?

2 Q With any firm, that there was political
3 pressure brought to bear to give business to a
4 specific underwriting firm.

5 A When you say "political pressure" what do
6 you mean?

7 Q Any influence from the governor's office to
8 select a certain firm to do underwriting for the
9 Arkansas Development Finance Authority.

10 A I wouldn't have any way to know that.

11 Q So you don't know?

12 A I don't have any idea.

13 Q Are you familiar with the bond underwriting
14 that Lasater & Company was involved in in 1985 which
15 involved financing a new police radio system for the
16 state of Arkansas?

17 A I know they participated in that
18 underwriting, yes.

19 Q Did you have any conversations with
20 Mr. Lasater about this underwriting?

21 A I don't recall specific conversations with
22 regard to the underwriting, although I'm sure that

1 Mr. Lasater shared with me what was going on from
2 time to time.

3 Q Did he tell you whether he had any
4 conversations with the Governor with regard to the
5 underwriting for the State Police radio bond issue?

6 A I don't recall him ever having said that he
7 talked with the Governor about it. This was
8 controlled by the State Police Commission, not the
9 governor's office.

10 Q Were you aware of any conversations he had
11 with anyone on the State Police Commission with
12 regard to the underwriting for the State Police radio
13 system?

14 A I don't know who he might have talked to,
15 but I'm sure that he did talk to people on the State
16 Police Board with regard to that. That's who was
17 making the decision.

18 Q Do you have any specific knowledge of any
19 conversations he had with any members of the State
20 Police Commission?

21 A I have no specific knowledge.

22 Q Do you have a general recollection that he

1 spoke to people on the State Police Commission?

2 A I don't even have that general
3 recollection. It was a State Police-controlled bond
4 issue, and I'm sure that there were conversations.

5 Q Was he friends with anyone on the
6 commission? Was he familiar already with any members
7 of the commission that you know about?

8 A If you tell me who was on the commission, I
9 could tell you whether he had a relationship with
10 them or not.

11 Q A gentleman by the name of Billy Simpson.

12 A He knew Billy Simpson.

13 Q Do you know how he knew Billy Simpson?

14 A I don't recall how he knew Billy Simpson,
15 but he did know Billy Simpson.

16 Q Do you know if he had any conversations
17 with Billy Simpson with regard to the State Police
18 radio contract?

19 A I have no recollection of that.

20 Q Did he know a gentleman by the name of
21 Tommy Goodwin?

22 A State Police director?

1 Q Yes.

2 A I don't know whether he knew Tommy Goodwin
3 or not.

4 Q But you knew who Tommy Goodwin was at the
5 time?

6 A Did I?

7 Q Yes.

8 A Oh, yes, I did.

9 Q How did you know Mr. Goodwin?

10 A The second biggest police division in the
11 state of Arkansas was run by the Highway Commission.
12 The Highway Commission and the State Police have to
13 work closely together. We had cooperative meetings
14 between the State Police Commission and the Highway
15 Commission to make sure we did work together. I
16 think on at least one occasion we had a cooperative
17 meeting.

18 Q Did you have any conversations with anyone
19 on the State Police Commission about the underwriting
20 for the State Police radio system?

21 A I don't recall having had any conversations
22 about that bond issue with anyone outside of

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1 Mr. Lasater.

2 Q Did Mr. Lasater know a gentleman by the
3 name of Johnny Mitchum?

4 A I think Mr. Lasater knew Mr. Mitchum, yes.

5 Q How did they know each other?

6 A I don't know who introduced Mr. Mitchum and
7 Mr. Lasater.

8 Q Were they acquaintances, good friends?

9 A I would describe them as acquaintances.

10 Q Did Mr. Mitchum ever come by and visit the
11 office while you were working there?

12 MR. COLE: Are we still in the '82-86 time
13 period?

14 MR. O'CALLAGHAN: Yes.

15 THE WITNESS: I don't recall that, but he
16 certainly could have. A lot of people came to see
17 Mr. Lasater.

18 BY MR. O'CALLAGHAN:

19 Q Did they ever go to lunch together, do you
20 know?

21 A I don't know.

22 Q Do you know if they ever went to dinner?

1 A I don't recall.

2 Q Do you know who Michael Gaines is?

3 A Mike Gaines?

4 Q Yes.

5 A Yes.

6 Q Who is Mike Gaines?

7 A Mike Gaines is currently on a -- in the
8 '82-86 period he was on the State Prison Board or on
9 the State Parole Commission, one of those kind of
10 boards.

11 Q Did you know him when he worked in the
12 governor's office?

13 A I knew who Mike was during that period.

14 Q Did Mr. Lasater know Mr. Gaines?

15 A I don't know whether he did or not.

16 Q Did you have any communications with
17 Mr. Gaines during the 1982-1986 time period?

18 MR. COLE: On any subject?

19 THE WITNESS: I don't recall having any
20 communications with Mike other than a friendly hello,
21 how are you, that sort of thing. I don't recall
22 having any other conversations with Mike Gaines

1 during that period.

2 BY MR. O'CALLAGHAN:

3 Q Specifically, did you have any
4 conversations about the underwriting for the State
5 Police radio network?

6 A With Mike Gaines?

7 Q Yes.

8 A I don't recall doing that, no.

9 Q Were you aware that during that time period
10 he acted as a liaison for the governor's office with
11 the State Police?

12 A No, I wasn't aware of that.

13 MR. WILLIAMS: Did you say the State
14 Police?

15 MR. O'CALLAGHAN: Yes, sir. That's the
16 Arkansas State Police, to be clear.

17 MR. WILLIAMS: I knew that. As opposed to
18 the State Police Board, is what I meant.

19 MR. O'CALLAGHAN: I think he was liaison to
20 the whole agency.

21 MR. WILLIAMS: State Police, State Police
22 Board, everything that had to do with the State

1 Police?

2 MR. O'CALLAGHAN: Yes. Agencies related to
3 public safety.

4 BY MR. O'CALLAGHAN:

5 Q Did you do any work associated with the
6 Arkansas State Police bond underwriting?

7 A I don't recall ever having done any work
8 for that.

9 Q Are you aware of any conversations that
10 Mr. Lasater had with anyone in the governor's office
11 with regard to the underwriting for the Arkansas
12 State Police underwriting?

13 A I'm not aware of it, no.

14 Q Are you aware of any conversations he had
15 with the Governor with respect to the Arkansas State
16 Police underwriting?

17 A That I had with the --

18 Q No, that Mr. Lasater had.

19 A I don't have any knowledge of that. I
20 don't recall having any discussions that would have
21 told me that he did.

22 Q Specifically, did he ever tell you that the

1 Governor told him that Lasater & Company was going to
2 get the underwriting contract for that bond
3 underwriting?

4 A I don't have any recollection of
5 Mr. Lasater ever telling me that, no. It was done by
6 bids, and the State Police, as I understand it, hired
7 somebody from the outside to review those bids. It
8 was decided based on the bids.

9 Q During the 1984 through 1985 time period,
10 did you have any contact with anyone by the name of
11 Michael Drake?

12 A Yes, I did.

13 Q Who is Michael Drake?

14 A Michael Drake worked for Mr. Lasater in the
15 bond underwriting firm.

16 Q What was the nature of your contact with
17 Mr. Drake?

18 A I saw Michael every day in and out of the
19 building. Sometimes it was social. Sometimes he
20 would come ask me, how do you think this is going to
21 play, what do you think the politics of this is, do
22 you think this will work, do you think this won't

1 work. He sometimes used me as a sounding board.

2 Q Did he ever use you as a sounding board
3 with regard to Lasater & Company's efforts to do the
4 underwriting for the Arkansas State Police radio
5 system?

6 A I don't recall him talking to me about that
7 one.

8 Q Did he ever tell you that Lasater & Company
9 was approached by T.J. Raney Company as part of an
10 underwriting team to do the police radio bond
11 underwriting because T.J. Raney believed that
12 Mr. Lasater had a friendship with Governor Clinton?

13 A I don't recall him talking about that, no.

14 Q Again, during the time period 1982 through
15 1986, did you ever accompany Mr. Lasater to any
16 meetings that he had with the Governor?

17 A I don't recall that, but I certainly could
18 have.

19 Q Did you ever personally meet with the
20 Governor during that time period?

21 A In my role working for Dan Lasater?

22 Q Yes.

1 A I don't recall having met with the Governor
2 during that period of time.

3 Q Did you have any meetings with the Governor
4 during that period of time?

5 A I certainly could have, yes.

6 MR. COLE: You were a member --

7 THE WITNESS: I was a member of the State
8 Highway Commission. If the commission was going to
9 meet with the Governor, I went with them.

10 BY MR. O'CALLAGHAN:

11 Q That generally would have been with a large
12 group of people?

13 A I say a large group, yes. It would never
14 be more than two commissioners at a time.

15 Q Never more than two at a time?

16 A Yes. We have a Freedom of Information Act
17 that if there were more than two, then the press has
18 a right to come. So there was never more than two.
19 It might be staff in addition to the two
20 commissioners.

21 Q That is outside of commission meetings?

22 A Right. Commission meetings all had to be

1 open to the public. We even notified the press if
2 more than two of us were going to fly on the airplane
3 at the same time. We were very careful about it.

4 Q During the period '82 through '86, did you
5 have numerous meetings with the Governor when it was
6 never more than two at a time in your role as Highway
7 commissioner?

8 MR. COLE: I would question the relevance
9 of that. We are not investigating the Highway
10 Commission.

11 MR. O'CALLAGHAN: I am just trying to get a
12 feel for how often Ms. Thomasson met with the
13 Governor during this time period and whether it would
14 stand out in your mind whether you met with the
15 Governor with Mr. Lasater, whether that was an event
16 you would remember.

17 THE WITNESS: I don't mean to demean the
18 Office of the Governor of the State of Arkansas by
19 any stretch of the imagination, but meeting in the
20 governor's office or going to the governor's office
21 for a meeting is not a big deal in my mind. It
22 wasn't even back then.

1 I can only specifically recall one meeting
2 with the Republican governor when he was governor of
3 the state from 1980 to '82. The rest of the meetings
4 I had in the Governor's office were always amicable
5 and affable and they don't make any specific imprint
6 on my brain.

7 Q Let me ask you this specific question. Do
8 you recall any meetings that you attended with
9 Mr. Lasater and the Governor where state bond
10 underwriting business issues were discussed?

11 A I don't specifically recall that, no.

12 Q Did you have any conversations with
13 Mr. Lasater with regard to -- rather, anyone
14 affiliated with Lasater & Company with regard to
15 hiring the Mitchell, Williams firm to draft
16 legislation that would authorize the underwriting for
17 the Arkansas State Police bond underwriting?

18 A I don't recall having any conversations
19 about hiring them.

20 Q Do you know whether anyone at Lasater &
21 Company had discussions with anyone in the governor's
22 office regarding the police radio bond underwriting?

1 A I don't know the answer to that.

2 Q Do you know if anyone at Lasater & Company
3 had discussions with the Governor with regard to the
4 police radio bond underwriting?

5 A I think you have already asked that one,
6 and I responded that I don't know the answer.

7 Can we break?

8 MR. O'CALLAGHAN: Sure.

9 (Recess.)

10 BY MR. O'CALLAGHAN:

11 Q During the period 1982 through 1986, did
12 Mr. Lasater have any involvement in any of Governor
13 Clinton's campaigns?

14 A We did a fundraiser one year for Governor
15 Clinton, and I don't recall what year that was, but I
16 know we did at least one fundraiser for him when I
17 was on staff. That would have been sometime between
18 June of '83 and when I left. So, sometime between
19 June and '83 and this period of 1986, we did one
20 fundraiser for the Governor that I specifically
21 recall.

22 Q Who organized it?

1 A I did.

2 Q Did you organize numerous events for
3 Mr. Lasater as part of your job?

4 A Yes, I did.

5 Q You did it for Lasater & Company also?

6 A I did it for Lasater & Company for six
7 months.

8 Q And when you organized the fundraiser for
9 Governor Clinton, he was governor at the time, I take
10 it?

11 A I don't recall. Well, yes, he would have
12 had to have been. He was reelected in '82. Yes, he
13 was the Governor at the time.

14 Q So, possibly the fundraiser was in '84,
15 during that campaign?

16 A Probably was 1984. It would have had to
17 have been '84, because we didn't do one in '86.

18 Q Who were you working for at that time? Do
19 you remember? Does that help place it?

20 A I don't know whether I was working for LFI
21 at that point or Lasater, Inc. at that point.

22 Q It would have been one of the two of those?

1 A Yes.

2 Q Where was the fundraiser held?

3 A As I recall, it was at Trapnell Hall.

4 Q Approximately how many people attended?

5 A I don't recall how many people were there.

*6 Q Do you remember whether it was a big event,
7 a smaller event?

8 A Trapnell Hall means it was a big event. It
9 would have been somewhere between 100 and 200 people
10 could have been there.

11 MR. WILLIAMS: That's a big event in
12 Arkansas.

13 MR. O'CALLAGHAN: A big event where I'm
14 from, too.

15 BY MR. O'CALLAGHAN:

16 Q Were there tickets sold for it? Did you
17 have to buy a ticket to get in? Was it invitation,
18 do you recall?

19 A I don't recall whether we did invitations
20 or not or whether we had tickets. I certainly could
21 tell you that everybody who was there didn't pay to
22 get there. There are lots of people who are just

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1 invited because they are who they are, like lots of
2 political events, or because they are a friend of a
3 friend. I don't recall whether we did that with
4 invitations or tickets.

5 Q You could have done both?

6 A Could have done both.

7 Q Do you recall how much money the event
8 raised?

9 A I don't recall.

10 Q Was the event done in conjunction with
11 anyone else other than Mr. Lasater?

12 A No, I don't think so. I don't recall
13 anybody else being involved. There could have been
14 other people involved, but I don't really recall
15 anybody else being involved.

16 Q Was this a fundraiser put on by Lasater &
17 Company, LFI or Lasater, Inc. or Mr. Lasater
18 personally?

19 A I don't remember who paid the bill for that
20 fundraiser.

21 Q Do you recall whether you wrote a check to
22 help pay for it, to pay for it or whether it was done

1 by another entity?

2 A I don't recall who paid for it.

3 Q You don't remember writing a check on
4 behalf of any of the entities that you worked for?

5 A I don't recall that, because I don't recall
6 who paid for it.

7 Q Did anyone assist you in organizing the
8 fundraiser?

9 A I'm sure the rest of the staff assisted me,
10 for sure.

11 Q Did you get any assistance from anyone at
12 Lasater & Company?

13 A I don't recall. I certainly wasn't the one
14 who went out and asked for everybody to give money.
15 That wasn't my job. I'm sure there were a lot of
16 people involved in saying, come on, go to this
17 fundraiser and put your money in the pot.

18 Q Did you ever write out any checks for
19 Mr. Lasater for campaign contributions?

20 A Yes.

21 Q How often did you do that?

22 A I don't have any recollection of how often

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1 it was. If he had somebody he wanted to give a
2 contribution to, I would normally take care of
3 getting the check written and making sure they got
4 where they were supposed to go.

5 Q If he needed a check written, you would be
6 the one to write it for him?

7 A No. I would pick up the phone and call the
8 bookkeeper and say, Mr. Lasater wants to do
9 such-and-such and such-and-such, would you make sure
10 these checks get done.

11 Q What was the name of the bookkeeper?

12 A In 1982 to 1986?

13 Q Yes.

14 A We had a girl named Brenda Gray from 1983,
15 and then at some point -- and I don't know when he
16 changed to Jean Williams, but at some point he got
17 Jean Williams, but I don't really recall when that
18 was. It would have been maybe in 1986 he switched
19 over.

20 Q Did you personally write checks out also?

21 A Sometimes, yes.

22 Q Who else would do that for Mr. Lasater?

1 A Personally write them out for him? The
2 bookkeeper. Mr. Lasater would from time to time.

3 Q Anyone else besides you, Mr. Lasater and
4 the bookkeeper?

5 A If it was a Lasater & Company check,
6 somebody else would have done that from Lasater &
7 Company.

8 Q Do you know who would have done that?

9 A No, I don't.

10 Q Do you recall how much money Mr. Lasater
11 contributed to Mr. Clinton's campaign in 1984?

12 A I have no recollection.

13 Q Did you personally make any campaign
14 contributions in 1984 to Mr. Clinton?

15 A I think I did.

16 Q Do you recall how much that was for?

17 A I don't recall.

18 Q Other than the formal fundraising event,
19 did Mr. Lasater do any other fundraising for Governor
20 Clinton?

21 A I don't recall that he did other
22 fundraising for Mr. Clinton. That's not to say that

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1 he didn't encourage people from time to time to make
2 contributions to the Governor's campaign.

3 Q Do you know whether he encouraged people at
4 Lasater & Company to contribute to the campaigns?

5 A I would certainly guess that he would have
6 encouraged Lasater & Company employees to contribute
7 to the campaign. But he understood if you said no
8 too.

9 Q Did you ever hear that Lasater & Company
10 employees were told that they would be reimbursed for
11 contributions they made to campaigns?

12 A I don't know about that.

13 Q Were you ever asked by Mr. Lasater to give
14 money to campaigns and told you would be reimbursed
15 in some fashion for the contribution you made?

16 A I don't recall ever being told that, no.

17 Q Did that ever happen?

18 A Not to my recollection.

19 Q The campaign -- the contribution checks
20 that you wrote out, who did you deliver those to or
21 send them to?

22 A I would have taken them to the campaign

1 headquarters.

2 Q Did you have a point of contact there?

3 A I don't know who was running the campaign.
4 I don't recall who was running the campaign in '84.

5 Q It would have been the chairman or the
6 chairperson?

7 A Yes, whoever was working at the
8 headquarters.

9 Q Did the Governor ever come to stop by the
10 offices at 312 Louisiana Street?

11 A I don't recall the Governor ever coming by
12 312 Louisiana when I was there.

13 Q Do you know whether he came by when you
14 weren't there, during that same time period?

15 A I don't have any recollection of the
16 Governor ever coming by the office.

17 Q The question is did you ever hear that he
18 was.

19 A No, I never have heard that either.

20 Q Did he ever come by the East 9th Street
21 Quapaw Tower office?

22 A No, he did not.

1 MR. COLE: To the best of your knowledge.

2 THE WITNESS: He never came by the office
3 when I was there.

4 BY MR. O'CALLAGHAN:

5 Q Did you ever hear that he went by there?

6 A I never heard that he went by there.

7 Q Did anyone -- again, during 1982 through
8 '86 -- did anyone from the governor's office visit
9 the 312 Louisiana Street office?

10 A Anybody from the governor's office?

11 Q Yes.

12 A Oh, gosh, I have no idea. I mean, the
13 Governor's staff was -- I don't recall anybody from
14 the governor's office being there. Certainly Maurice
15 could have come by to get me for lunch or come by in
16 the afternoon to pick me up to go to dinner or
17 anything like that. Mr. Smith and I are friends, and
18 he certainly could have come by to get me.

19 Q How about Mr. Nash? Did he ever come by
20 the office?

21 A I never saw Mr. Nash at Lasater & Company
22 at 312 Louisiana.

- 1 Q Did you ever hear that he came by?
2 A No, I did not.
3 Q How about Mr. Bratton?
4 A I have no knowledge of Sam Bratton ever
5 being in that building at all.
6 Q How about Betsey Wright?
7 A I don't recall Betsey Wright ever being in
8 that building.
9 Q Have you ever heard that she was?
10 A I never heard that she was from the period
11 of time I worked for them, from the period of 1983
12 forward.
13 Q Did any of the state troopers who provided
14 security for the Governor come by the offices at 312
15 Louisiana Street?
16 A I don't know of any that came there, no.
17 Q Do you know if anyone who was in the employ
18 of Mr. Lasater provided any cash to any state
19 troopers during the period 1982 through 1986?
20 A I don't have any knowledge of that.
21 Q Do you know whether anyone who is in the
22 employ of Mr. Lasater attempted to provide the

- 1 Governor with any cash during that time period?
2 A I don't have any knowledge of that.
3 Q Are you aware of whether Mr. Lasater
4 provided the Governor with any cash to the Governor
5 during that time period?
6 A Cash?
7 Q Yes.
8 A I have no knowledge of Mr. Lasater
9 providing cash to anybody during that period, or any
10 other period, for that matter. I have probably
11 borrowed a few bucks from him occasionally in cash, 3
12 or 4 bucks to go to lunch.
13 Q Have you ever heard that anyone who worked
14 for Mr. Lasater provided a bag or envelope full of
15 cash to a state trooper?
16 MR. COLE: Okay. I have listened to
17 several of these questions, and I guess with respect
18 to questions concerning the Governor, as outlandish
19 as they are, I could see some link to what we are
20 supposed to be investigating here.
21 I just don't see the basis within our
22 Resolution and within the mandate of this committee

1 for these questions about bags and envelopes of cash
2 being given to state troopers.

3 MR. O'CALLAGHAN: I should specify. State
4 troopers on the Governor's detail.

5 THE WITNESS: I have no knowledge of that
6 ever happening.

7 MR. COLE: The questions are difficult,
8 Ms. Thomasson, because if I object and tell you not
9 to answer and say they are outside the scope, then
10 someone will read the deposition transcript and say I
11 was covering up some improper activity. The easiest
12 thing to do is for you to answer. The Minority
13 certainly doesn't join in this line of questioning.

14 BY MR. O'CALLAGHAN:

15 Q Are you aware of anyone who is associated
16 with Lasater & Company or any Lasater entities that
17 attempted to provide cash or any kind of remuneration
18 to the Governor in connection with ADFA bond
19 underwritings?

20 A Would you just repeat that?

21 MR. O'CALLAGHAN: Read that back.

22 (The reporter read the record as requested.)

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1 THE WITNESS: I think that is the most
2 outrageous thing I have ever heard in my life. No,
3 absolutely not. That is the stupidest question I
4 have ever heard in my life. I'm sorry, sir.

5 BY MR. O'CALLAGHAN:

6 Q I have to ask the question anyway --

7 MR. COLE: It may not hold that title for
8 very long. Stay tuned.

9 BY MR. O'CALLAGHAN:

10 Q -- whether you know if anyone associated
11 with any Lasater company attempted to provide cash to
12 the Governor or anyone in the governor's office in
13 connection with the Arkansas State Police radio bond
14 underwriting.

15 A No.

16 Q Are you aware of whether Lasater & Company
17 made bids for underwriting contracts with bid
18 proposals that were -- let me withdraw that.

19 I want to make sure I phrase this correctly
20 so it is clear and understandable.

21 Are you aware of any conversations or
22 communications between Mr. Lasater and the Governor's

1 office with regard to concerns that Lasater & Company
2 was making low bids for underwriting contracts?

3 A I don't quite get this question.

4 Q Whether Lasater & Company was bidding on
5 underwriting contracts quoting prices which they
6 could deliver the offering at unreasonably low
7 rates.

8 MR. COLE: I suspect the source of
9 Ms. Thomasson's confusion stems from the fact that if
10 a low bid is more likely to win the contract, people
11 generally try to make their bids as low as they can.

12 I think what Mr. O'Callaghan is getting at
13 is there was a bid that was set that was not actually
14 intended to be the price that later would be charged
15 in terms of a management fee or something like that,
16 if that helps you at all in understanding this
17 question.

18 THE WITNESS: I have no knowledge that
19 Lasater & Company ever underbid an extremely low
20 bid. If they, ADFA, had operated like the Arkansas
21 Highway Commission bid, if they underbid and couldn't
22 deliver the price, it would have been thrown out. I

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1 suspect they would have bid it the same way, since
2 the laws affect the Arkansas state agencies the same
3 way.

4 MR. WILLIAMS: Did you have any involvement
5 with the bond underwriting portion of Lasater?

6 THE WITNESS: Never had any involvement
7 with that.

8 MR. WILLIAMS: You were in administration?

9 THE WITNESS: When I worked for Lasater &
10 Company from June '83 to November '83, I have no idea
11 whether they did any bidding on bond issues or not.

12 My best guess is we didn't because we were
13 in a state of flux. One partner was buying another
14 partner out at that time. It was a mess. I don't
15 remember doing any bond issues during that period of
16 time.

17 After that period of time, I only knew
18 peripherally about a bond issue being bid. It had
19 nothing to do with us. But would anybody in Arkansas
20 have underbid at such a low level, thinking the bid
21 wouldn't get thrown out when they couldn't deliver,
22 they would have been crazy. We are not troglodytes

1 down there.

2 BY MR. O'CALLAGHAN:

3 Q I wasn't inferring that you were, that
4 anybody was. The reason I have asked you these
5 questions is because I understand you had a close
6 working relationship with Mr. Lasater during this
7 entire time period and there is a chance you may
8 have --

9 A Mr. Lasater did not participate in the
10 day-to-day putting together of bids to go out and bid
11 bond issues either. Mr. Lasater did not have the
12 day-to-day involvement with that, with doing that.
13 He did not know how to do that. That was not
14 something that was within his specialty. He looked
15 to somebody else in the organization to do that for
16 him.

17 Q Did you have any responsibility for
18 scheduling the use of any of Mr. Lasater's aircraft?

19 A Yes.

20 Q Were you the person who scheduled for who
21 would fly in the airplanes?

22 A For who would fly? For the manifest?

1 Q Yes, ma'am.

2 A No.

3 Q Was there a person who worked for
4 Mr. Lasater that had that responsibility?

5 A For the manifest? The pilot recorded the
6 manifest.

7 Q Not who recorded but who kept track of who
8 was going to be flying on what flights.

9 A The pilots recorded the manifest, if there
10 was a manifest to be recorded.

11 Q Other than recording who was on the
12 flights, scheduling and scheduling who was going to
13 be flying on the plane at different times.

14 A We didn't do that. We didn't have to worry
15 about that.

16 Q Are you aware of any times that Governor
17 Clinton used any aircraft owned by Mr. Lasater or a
18 Lasater-affiliated company?

19 A Yes, the Governor used the plane from time
20 to time.

21 Q How often would you say the Governor used
22 the Lasater planes?

1 A I don't have any recollection of how often
2 he did. Sometimes he would use it. Sometimes he
3 would make a request to use it for someone else. One
4 time we flew Bob Hope at the request of the
5 Governor. We flew the Arkansas basketball team from
6 time to time.

7 Q Specifically, though, I'm asking about the
8 Governor.

9 A I don't have any recollection of how many
10 times he flew in Mr. Lasater's plane.

11 Q Do you know if it was 10 times, more than
12 10 times, less than 10 times?

13 A I have no recollection of how many times
14 Mr. Clinton flew on Mr. Lasater's plane.

15 Q But you know that he did?

16 A Yes, I recall that he did.

17 Q You don't know if it was more than once?

18 A I don't recall.

19 Q Did you ever fly in a Lasater plane with
20 the Governor?

21 A I don't recall ever flying on the Lasater
22 plane with the Governor. I have flown on an airplane

1 with the Governor, but I don't recall flying on the
2 Lasater plane with him.

3 Q Did you ever fly with anyone on the
4 Governor's staff in a Lasater plane?

5 A Not that I recall.

6 MR. WILLIAMS: Michael, you are saying
7 "ever" now, but you told me that you would let me
8 know when you were switching from the '82-86 time
9 period.

10 MR. O'CALLAGHAN: I'm sorry.

11 BY MR. O'CALLAGHAN:

12 Q I can limit it to the '82-86 time period.
13 Does that change any of your answers?

14 A No.

15 MR. WILLIAMS: She just said she didn't
16 have any access to any planes or there were no planes
17 after '86.

18 THE WITNESS: Fall of '86, sold the last
19 airplane.

20 BY MR. O'CALLAGHAN:

21 Q Did you ever visit the governor's mansion
22 with Mr. Lasater? This is again during the '82-86

- 1 time period.
- 2 A I don't know. I don't recall.
- 3 Q Between 1982 and '86, did you go to the
- 4 mansion?
- 5 A Sure.
- 6 Q How many times would you say you visited
- 7 the mansion?
- 8 A I don't recall. I mean, two or three times
- 9 a year, I'm sure.
- 10 Q Do you know how many times Mr. Lasater went
- 11 to the mansion during that time period?
- 12 A I have no idea.
- 13 Q Do you know if he went there?
- 14 A I don't recall.
- 15 Q So, you don't recall whether you arranged
- 16 any appointments for him out at the mansion?
- 17 A I don't recall it, no.
- 18 Q During this time period, did you schedule
- 19 appointments for Mr. Lasater?
- 20 A Sometimes, yes. I didn't schedule all of
- 21 his appointments, no.
- 22 Q Was that one of your responsibilities,

- 1 though, scheduling for Mr. Lasater?
- 2 A No.
- 3 Q Whose responsibility was that?
- 4 A Mr. Lasater had a personal secretary.
- 5 Q She did the scheduling?
- 6 A Well, I hesitate to call it scheduling,
- 7 because in the sense that the word "scheduling,"
- 8 within Washington, the Beltway situation, you have
- 9 people who all they do all day is do scheduling.
- 10 Q The person who made appointments for him.
- 11 A He made a lot of his own appointments
- 12 himself. She, his secretary, could have made an
- 13 appointment for him, I could have made an appointment
- 14 for him. Scheduling was not a major chore.
- 15 Q Are you aware whether the Governor ever
- 16 visited Mr. Lasater's apartment at Quapaw Apartments?
- 17 A I don't know.
- 18 Q Did the Governor attend any parties that
- 19 were thrown by Mr. Lasater during that time period?
- 20 A The Governor was at least at one of the
- 21 parties that Mr. Lasater had in Hot Springs after the
- 22 races.

1 Q When was that?

2 A I don't recall whether that was '83 or
3 '84.

4 Q Were you there as well?

5 A Yes, and a thousand of our closest and
6 dearest friends.

7 Q Was there a specific event that the party
8 was celebrating?

9 A It was the last day of the races. It was a
10 celebration of the race being over.

11 Q Any other parties you are aware of that the
12 Governor attended?

13 A I don't recall.

14 Q Did he attend any Christmas parties thrown
15 by Lasater & Company or Mr. Lasater?

16 A I don't recall him being at any Christmas
17 parties.

18 MR. O'CALLAGHAN: Can we take a quick break
19 here.

20 (Recess.)

21 MR. O'CALLAGHAN: If I have already asked
22 this, Counsel, let me know. I want to make sure we

1 are clear.

2 BY MR. O'CALLAGHAN:

3 Q During the period 1985 through 1986, how
4 much personal contact did you have with the Governor?

5 A '85-86?

6 Q Yes.

7 A How much personal contact did I have with
8 the Governor?

9 Q Yes, ma'am.

10 A In 1985, we passed a major tax bill, and so
11 I was in the capital a lot, in and out of the
12 Governor's office, not always personal contact when I
13 was in there. Sometimes he was in there and
14 sometimes he was not in there. '85 was a major tax
15 year for us on the Highway Commission, so I had a lot
16 of contact at the capital and thereby contact with
17 the Governor.

18 Q What time of year did that work occur?

19 A January through April, during the time the
20 legislature was in session.

21 Q How about other than the work you did on
22 tax bills, did you have any other contact with him?

1 A Anytime that the Highway Commission was
2 going to dedicate a road during that period of time,
3 the Governor would be there. Sometimes the Governor
4 would go with us, on the airplane with us. Sometimes
5 he would not go with us.

6 It would just depend on what his schedule
7 was and if he had other events or if we had only one
8 event. So, throughout the year I could have been
9 exposed to the Governor.

0 Q So, would you characterize your contact
1 during that time period as reasonably frequent,
2 frequent contact, monthly or weekly? I guess it
3 varied through the year.

4 A It varied through the year. During that
5 period when I was in the capital building every day,
6 I might have seen him once or twice a week.
7 Sometimes not in an official meeting, just see him in
8 the hallway, say hi to him. The Governor wouldn't
9 hesitate to come to a committee session if he thought
0 that would help pass his bills. So you saw him all
1 over the capital. It is not like it is today.

2 Q How about after April '85, after the tax

80

1 law? You said highway dedications. How many of
2 those do you remember occurring during that time
3 frame?

4 A Gosh, I have no recollection.

5 Q A lot of them?

6 A I don't have any recollection how many
7 there were. There is a record at Arkansas at the
8 Highway Commission how many there were, but I don't
9 recall how many there were.

10 Q How about outside of highway dedications?
11 Did you see him any other times?

12 A I don't recall seeing the Governor a lot in
13 1985 or '86 outside of my responsibilities on the
14 Highway Commission.

15 Q Did you talk with him on the phone at all?

16 A I don't recall having talked to him on the
17 phone, no.

18 Q When was the first time that you became
19 aware that Dan Lasater was the subject of a criminal
20 investigation?

21 A Sometime in 1986.

22 Q Do you recall what month?

1 A No, I don't.

2 Q Do you recall whether it was during the
3 summer or the spring or the fall?

4 A I don't recall.

5 Q How did you first find out?

6 A I don't recall whether Mr. Lasater told me
7 or whether his lawyers told me. I don't recall.

8 Q Do you recall the context of the
9 conversation, why it was brought to your attention?

10 A I don't recall that.

11 Q After you became aware of that, did you
12 discuss that with anyone, the fact that he was the
13 subject of a criminal investigation?

14 A My mother.

15 Q Anyone else?

16 A My brothers.

17 Q Anyone else other than that, other than
18 family members?

19 A I'm sure I did. At some point, not early
20 in that, I'm sure I had a lot of discussions right
21 before he was indicted with our bankers who were
22 lending us money.

1 Q Did you have any discussion with anyone in
2 the governor's office with regard to that?

3 A I have no recollection of having any
4 discussion with anyone in the governor's office about
5 it.

6 Q Any conversation with the Governor?

7 A No, I have no recollection of ever having
8 talked to the Governor about it.

9 Q Anyone associated with the Arkansas State
10 Police Commission?

11 A I had no conversation with the State Police
12 Commission.

13 Q Anyone associated with the Arkansas
14 Development Finance Authority?

15 A No.

16 Q Are you aware whether Mr. Lasater had any
17 conversations with the Governor with regard to his
18 being the subject of a criminal investigation?

19 A I'm not aware of any conversations that he
20 had of that nature.

21 Q Are you aware of any conversations with
22 anyone on the Governor's staff about him being the

1 subject of a criminal investigation?

2 A I'm not aware he had any conversation with
3 anyone on the Governor's staff about that.

4 Q Are you aware whether he had any
5 conversation with anyone in the Governor's family
6 about that, specifically with his brother, Roger
7 Clinton?

8 A I have no knowledge of any conversations
9 about that.

10 Q Did he have any conversations about the
11 subject of his being the subject of a criminal
12 investigation with Virginia Kelley?

13 MR. COLE: I'm not going to object to the
14 question and instruct him not to answer, but for the
15 purpose of the record I want to note it is the view
16 of the Minority and it has been extensively discussed
17 in other depositions that this line of questioning is
18 not authorized under the Resolution this committee is
19 working on.

20 Having said that, unless your counsel
21 wishes to instruct you not to answer, I will not tell
22 you not to answer the question.

1 THE WITNESS: I have no knowledge whether
2 he ever talked to Virginia Kelley about that subject
3 or not.

4 BY MR. O'CALLAGHAN:

5 Q Are you aware -- the first question is, are
6 you aware whether the Governor ever became aware that
7 Mr. Lasater was the subject of a criminal
8 investigation?

9 A I'm not aware of what the Governor knew or
10 when he knew.

11 Q Are you aware whether anyone on the
12 Governor's staff was aware that Mr. Lasater was the
13 subject of a criminal investigation?

14 A No one on the Governor's staff discussed
15 Mr. Lasater's criminal investigation with me.

16 Q Do you have any knowledge whether anyone on
17 the staff knew about it?

18 A I have no knowledge of that.

19 Q Do you know who Roger Clinton is?

20 A Yes, I do.

21 Q Do you know him personally?

22 A Yes, I do.

1 Q Did you know him during this time period
2 1982 through 1986?

3 A I knew him before 1982 and I knew him
4 through 1986 and I continue to know him today.

5 Q Did you ever have any personal contact with
6 him between 1982 and 1986?

7 A I saw him at a lot of social events during
8 that period of time.

9 Q Did Governor Clinton make a request to
10 Mr. Lasater during this time period to find Roger
11 Clinton a job?

12 A He asked him to put him to work, yes.

13 Q How do you know that he asked him to put
14 him to work?

15 A Because Mr. Lasater told me he asked him to
16 put him to work.

17 Q When did he tell you that?

18 A Sometime about the time he put him to work.

19 Q Do you know when that was?

20 A Sometime in 1982-83.

21 Q Do you know how the subject came up of the
22 Governor's request --

1 A I have no idea.

2 Q -- to give Roger a job? Did he say why the
3 Governor asked Mr. Lasater to get Roger a job?

4 A As far as I know, from my recollection of
5 the conversation, he wanted him to be doing something
6 where he was using his energy up, so we put him to
7 work shoveling manure.

8 Q I have done that and I can tell you it does
9 take quite a lot of energy.

10 MR. COLE: It will use your energy up.

11 MR. WILLIAMS: The same words of General
12 George Patton.

13 BY MR. O'CALLAGHAN:

14 Q The Committee appreciates your genteel
15 choice of words.

16 A Mucking out stalls.

17 Q Were you ever told of any specific reason
18 the Governor asked Mr. Lasater to find Roger Clinton
19 a job?

20 A The only recollection I have with that is
21 Roger liked horses, he liked the horse racing
22 business and thought he wanted to be in the horse

1 racing business. He wanted to be in something where
 2 he could use his energy up and maybe get started in
 3 something he could make a career. The only way to
 4 start in the horse racing business is to start from
 5 the ground up.

6 Q Literally.

7 A He is a little too heavy to be a jockey.

8 Q Did Mr. Lasater eventually give Roger
 9 Clinton a job?

10 A He was on the farm payroll in Florida and
 11 worked at the farm in Florida.

12 Q Do you know how long he worked there for?

13 A I don't have any idea.

14 Q Are you aware whether during this time
 15 period that Mr. Lasater loaned any money to Roger
 16 Clinton?

17 A Mr. Lasater did loan some money to Roger
 18 Clinton, yes.

19 Q How do you know that?

20 A I think --

21 MR. COLE: Again, for the sake of the
 22 record, sorry to interrupt, I do want to note the

1 Minority's objection to this line of questioning and
 2 also just to bring that to your counsel's attention.

3 Once again, I will not instruct you not to
 4 answer the question, because I think the more fair
 5 thing to do for you is to get this deposition over
 6 with without delaying any further. Do you need the
 7 question read back?

8 THE WITNESS: Please.

9 BY MR. O'CALLAGHAN:

10 Q I will restate it. How do you know
 11 Mr. Lasater loaned Roger Clinton money?

12 A Mr. Lasater told me to write a check and
 13 get a note signed by Roger.

14 Q Did you write a check for Mr. Clinton?

15 A Roger got a check, yes.

16 Q How much was the check for?

17 A I don't recall specifically. It was
 18 somewhere, I would say, between 5 and \$10,000.

19 Q Out of what account was the check drawn?

20 A I don't recall.

21 Q Do you recall whether it was his personal
 22 account or the company's accounts?

1 A I don't recall.

2 Q Was it on Lasater & Company account?

3 A It would not have been on Lasater &
4 Company, because I couldn't control that checking
5 account.

6 Q And you said -- he asked you to get Roger
7 to sign a note?

8 A Yes.

9 Q What do you mean by that? Could you
10 explain?

11 A Mr. Lasater was not in the habit then of
12 giving money away, and if he lent Roger money, then
13 he would expect Roger to sign a note back to him
14 saying that Roger owed, a promissory note saying I
15 owe you whatever amount of money it was.

16 Q Did he do that?

17 A As far as I recall, he did.

18 Q Do you know if he ever paid the loan back?

19 A Not to my knowledge.

20 Q Did Mr. Lasater have any conversations with
21 the Governor with regard to his loaning Roger Clinton
22 money?

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1 A Not to my knowledge.

2 Q Did he have any conversations with anyone
3 on the Governor's staff with regard to his loaning
4 Roger money?

5 A Not to my knowledge.

6 Q And did you have any conversations with the
7 Governor with regard to Mr. Lasater loaning Roger
8 Clinton money?

9 A No, I did not.

10 Q That never came up?

11 A It wasn't the Governor's business. It was
12 Roger's loan.

13 Q Did you ever discuss it with anyone in the
14 Governor's staff that Mr. Lasater loaned Roger
15 Clinton money?

16 A I have no recollection of ever discussing
17 it with the Governor's staff.

18 Q Did you discuss the fact that Mr. Lasater
19 loaned Roger Clinton money with anybody other than
20 Mr. Lasater?

21 MR. WILLIAMS: Discuss it with anybody?

22 BY MR. O'CALLAGHAN:

1 Q Did you discuss it with anybody other than
2 Mr. Lasater?

3 A Mr. Lasater's bookkeeper.

4 Q Anybody else?

5 A I don't recall discussing it with anybody
6 else.

7 Q Did the Governor ever come to find out that
8 Mr. Lasater loaned Roger the money?

9 MR. COLE: Do you mean other than having
10 read about it in the paper?

11 BY MR. O'CALLAGHAN:

12 Q Other than newspaper accounts, yes.

13 A I have no idea.

14 MR. COLE: That's the beauty of this line
15 of inquiry, in addition to I think not being within
16 the Resolution, it has all been spread all over the
17 newspapers.

18 THE WITNESS: Absolutely.

19 MR. COLE: But so be it.

20 BY MR. O'CALLAGHAN:

21 Q Did Mr. Lasater provide Roger Clinton with
22 any money other than the loan that you just testified

1 about?

2 A I don't have any knowledge of anything
3 except that loan and the salary that he worked for.

4 Q Do you know how much the salary was for?

5 A I'm sure it was an hourly wage.

6 Q You don't know?

7 A I don't know. Everybody at the farm was
8 paid an hourly wage.

9 Q Did Madison Guaranty Savings & Loan
10 maintain any securities account at Lasater & Company?

11 A I don't know.

12 Q I will show you a couple more documents,
13 these are letters on Lasater, Inc. letterhead, before
14 we move on to the next subject. I will ask you some
15 very general questions about them and we will move on
16 to the next area.

17 First I will show you document on Lasater,
18 Inc. letterhead, May 1, 1985. It is addressed to the
19 Honorable Bill Clinton signed "Sincerely, Dan R.
20 Lasater." It says "Dan." It reads "It is with great
21 pleasure that we write to you in support of the
22 appointment of Mort Hardwicke, position of board

1 member, Arkansas Development Finance Authority." The
2 Bates is DKSJ 026606.

3 (Witness examined the document.)

4 MR. O'CALLAGHAN: Counsel, are you ready?

5 MR. WILLIAMS: Almost.

6 BY MR. O'CALLAGHAN:

7 Q Have you ever seen this document before?

8 A I don't recall ever seeing it.

9 Q After looking at this document, does this
10 refresh your recollection as to whether you prepared
11 any letters from Mr. Lasater with regard to ADFA
12 board member appointments?

13 A I didn't prepare this document. I don't
14 even know who Mort Hardwicke is. It uses words that
15 I would never use.

16 Q What words are you referring to?

17 A I would never say "I have become familiar
18 with the motives and conduct of the agency's board
19 member." That is not a sentence I would have
20 written.

21 Q Is that similar to any writing style you
22 are familiar with?

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1 A No.

2 Q Did employees of Lasater & Company have
3 access to Lasater, Inc. letterhead?

4 A From time to time, yes.

5 Q Did they have -- was that kept in their
6 supply cabinets?

7 A I'm sure all the excess supplies were kept
8 in supply cabinets.

9 Q But they were located in the same building;
10 is that right?

11 A They were all in the same building, yes.

12 Q In the same office space?

13 A We were on the third floor. They were on
14 the first floor and the second floor of that
15 building. We had a little nook on the third floor.
16 We could come into the building and enter our offices
17 and never enter the Lasater & Company space. It was
18 set up in such a way.

19 Q Are you aware of any conversations between
20 Mr. Lasater and the Governor with regard to
21 Mr. Lasater's cocaine use?

22 A I'm not familiar with that, no.

1 Q Do you know if the Governor had any
2 knowledge of Mr. Lasater's cocaine use during the
3 time period we are talking about?

4 A I have no knowledge of that.

5 Q Do you know whether anyone on the
6 Governor's staff had any knowledge of Mr. Lasater's
7 cocaine use during this time period?

8 A I have no knowledge.

9 Q Do you know whether anyone in the Arkansas
10 State Police Commission had knowledge of
11 Mr. Lasater's cocaine use during this time period?

12 A I don't have any idea.

13 Q And do you know whether anyone on the ADFA
14 board had any knowledge of Mr. Lasater's cocaine use
15 during this period?

16 A I have no idea.

17 Q Did you work on the 1992 Clinton
18 Presidential campaign?

19 A I worked for the Democratic party of
20 Arkansas during that period of time. As a result of
21 that, I was working on the coordinated campaign in
22 Arkansas which was to get out the vote.

1 Q Did you spend any time in Washington
2 working on that campaign?

3 A In 1992?

4 Q Yes.

5 A No.

6 Q During the 1992 campaign, where did you
7 work out of?

8 A Little Rock, the Democratic party of
9 Arkansas.

10 Q Did you spend any time in the Clinton
11 campaign headquarters?

12 A I would go in and out.

13 Q Did you have an office over there?

14 A No, I did not.

15 Q During the 1992 campaign, did you see or
16 come across any documents related to Whitewater
17 Development Corporation?

18 A Only what I read in the newspaper.

19 Q You didn't see any documents either at the
20 Democratic party building or at the Clinton campaign
21 headquarters?

22 A No.

1 Q Any documents related to Madison Guaranty
2 Savings & Loan?

3 A No.

4 Q Did you ever see any documents relating to
5 the Rose Law Firm?

6 A No.

7 Q Did you ever witness anyone at the campaign
8 shredding documents?

9 A No. I don't even know whether they had a
10 shredder or not.

11 Q Did you ever see anyone at the Democratic
12 party offices shred paper?

13 A No. We didn't have a shredder.

14 Q Are you aware of any shredding that was
15 done by anyone associated with the 1992 campaign?

16 A No, I'm not.

17 Q I understand you have been asked questions
18 on these subjects, so I will keep it very basic. I
19 have some very specific questions with regard to
20 whether you visited Vince Foster's office on the
21 afternoon of his death.

22 MR. COLE: I think we have covered this.

1 She has appeared at a hearing. I really object to
2 this, if nothing else, just on grounds of wasting my
3 time. She has appeared at a public hearing.

4 Do you have some new information that has
5 arisen since her last appearance before the Committee
6 that prompts you to come back and revisit this area
7 of questioning?

8 MR. O'CALLAGHAN: Yes, with regard to the
9 Rose Law Firm billing records. I want to ask her
10 some questions, whether she saw them when she was at
11 the office.

12 MR. COLE: If you want to ask her that,
13 that's fine. But to recover the events of --

14 MR. O'CALLAGHAN: I have no interest in
15 doing that.

16 MR. COLE: That's fine. I'm glad we
17 cleared that up.

18 BY MR. O'CALLAGHAN:

19 Q I ask the question as a predicate, whether
20 you visited Vince Foster's office after his death.

21 A Yes, I did.

22 Q Do you know whether you saw any Rose Law

1 Firm billing records while you were in the office?

2 A I have no recollection of anything like
3 that.

4 Q I have a multipage document here which is
5 Bates stamped DKS N 028928 through DKS N 029043. It is
6 a series of pages which are commonly referred to as
7 Rose Law Firm billing records. "Rose Law Firm client
8 billing payment history by client ID matter."

9 I would like to have you take a quick look
0 at this document and I show it to you and your
1 attorney.

2 A I can answer that already. I have never
3 seen this document before. This is the very first
4 time I have ever seen this document.

5 MR. COLE: It is getting a little dog-eared
6 from being shown to witnesses.

7 MR. WILLIAMS: I see there is a coffee or
8 Coke stain on the back of it.

9 MR. FEUER: I guess he will be asking
0 whether it is regular or decaf.

1 THE WITNESS: I understand it is
2 Mr. Starr's special blend.

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1 BY MR. O'CALLAGHAN:

2 Q Did you speak with anyone outside the White
3 House about your visit to Mr. Foster's office after
4 his death?

5 MR. WILLIAMS: That has already been gone
6 over.

7 MR. COLE: Yes. I don't see the link to
8 the discovery of the Rose Law Firm billing records.

9 BY MR. O'CALLAGHAN:

10 Q This is in relation to -- I asked the
11 question directly. Did you ever have any
12 conversations with a gentleman by the name of Charles
13 or Charlie Scalera about your visit to Vince Foster's
14 office?

15 A I have never even talked to Charlie Scalera
16 about it. I know who Charlie Scalera is, but I have
17 never talked to him about it.

18 MR. WILLIAMS: Are we getting near the end,
19 Michael?

20 MR. O'CALLAGHAN: Yes. I think I covered
21 the first portion -- off the record.

22 (Discussion off the record.)

1 BY MR. O'CALLAGHAN:

2 Q Ms. Thomasson, are you familiar with a
3 company by the name of Castle Sewer and Water?

4 A Just through what I read in the newspaper.

5 Q Other than that?

6 A No.

7 Q In 1983, did you have any knowledge of it?

8 A Not to my recollection.

9 Q Are you familiar with a company called
10 Castle Grande Real Estate Development?

11 A Only through the newspaper.

12 Q Have you ever heard about Maple Creek
13 Farms?

14 A I drove by it every time I went home.

15 Q Other than driving by it?

16 A No, and the advertisements on TV.

17 Q You never had any discussions about it with
18 anybody?

19 A No.

20 Q Other than maybe discussing the ads.

21 A They were pretty poor. I probably did have
22 that discussion.

1 Q Are you familiar with Beverly Bassett
2 Schaffer?

3 A I know Beverly Bassett Schaffer.

4 Q Are you aware of any communication that she
5 had with Hillary Clinton with regard to Madison
6 Guaranty & Loan?

7 A I have no knowledge of that.

8 Q Are you familiar with a company by the name
9 of Capital Management?

10 A No, I am not.

11 Q A company named Master Marketing?

12 A I'm sorry?

13 Q Master Marketing.

14 A I've never heard of them.

15 Q Do you have any knowledge of whether
16 Governor Clinton ever asked David Hale to make a
17 \$300,000 loan to Susan McDougal?

18 A I have no knowledge of that.

19 Q Do you know Susan McDougal?

20 A I have met Susan, yes.

21 Q How do you know her?

22 A I have met her at social events.

1 Q How about Jim McDougal?

2 A I know Jim McDougal.

3 Q How do you know him?

4 A Jim McDougal was a staff assistant to
5 Senator Fulbright, and I was a staff assistant to
6 Wilbur Mills at the same time. We occupied offices
7 in the same building in Little Rock. Later Jim
8 McDougal married one of Mr. Mills's assistants, so I
9 knew her.

10 Q During the period 1978 through 1986, were
11 you aware that Governor Clinton and Ms. Clinton had a
12 business relationship with the McDougals?

13 A Was I aware sometime between 1978 and 1986,
14 during that period of time?

15 Q Yes, ma'am.

16 A No, I had no knowledge of that during that
17 period of time.

18 Q During that period of time, did you have
19 any involvement with Whitewater Development
20 Corporation?

21 A Not during that period nor any other
22 period.

1 Q How about with Madison Guaranty Savings &
2 Loan?

3 A During that period, 1978 to 1986?

4 Q Yes.

5 A I didn't have any relationship with Madison
6 Guaranty during that period personally.

7 Q What do you mean by "personally"? Did you
8 have a business relationship or any accounts with
9 them or anything?

10 A I'm saying personally because I don't know
11 if one of Mr. Lasater's companies over here, Lasater
12 & Company, may have had a business relationship with
13 Madison. That's why I'm saying "personally."

14 Q Did you ever have any discussions with
15 Governor Clinton about Madison Guaranty Savings &
16 Loan?

17 A No.

18 Q Ever have any discussions with him about
19 Whitewater Development Corporation?

20 A No.

21 Q Ever have any discussions with Mrs. Clinton
22 with regard to Madison Guaranty Savings & Loan?

- 1 A No.
2 Q Any conversations with her about Whitewater
3 Development Corporation?
4 A No.
5 Q Are you familiar with the place called
6 Campobello Island?
7 A I have read about it, yes.
8 Q You read about it in the papers?
9 A Yes.
10 Q Any other knowledge outside of that?
11 A I read about it in the history books.
12 Q Any knowledge of a real estate development
13 or land deal there?
14 A What I have read in the newspaper.
15 Q Did you have any discussions with the
16 Governor or Mrs. Clinton with regard to Campobello
17 Island?
18 A No.
19 Q Other than the 1984 fundraiser that you
20 testified earlier about that Mr. Lasater was involved
21 in organizing and that you actually did the
22 logistical organization for, did you attend any other
-

- 1 Clinton fundraisers?
2 A I'm sure I did.
3 Q Did you attend a fundraiser in April -- in
4 or around April 1985 that was held at Madison
5 Guaranty?
6 A No.
7 Q Have you ever had any discussions with
8 anyone about a fundraiser that occurred in or around
9 April 1985 at Madison Guaranty?
10 A I have not.
11 Q Are you aware that one occurred during that
12 time?
13 A Through the knowledge gained from the
14 newspapers.
15 Q Other than that?
16 A No.
17 Q Do you know whether the 1992 Presidential
18 campaign had records that related to Whitewater
19 Development Corporation?
20 A I have no idea.
21 Q Do you know whether they had records
22 relating to the Rose Law Firm?

1 A I have no idea.

2 Q Have you had discussions with anybody
3 regarding the Resolution Trust Corporation's
4 investigation of the Rose Law Firm?

5 A No, I have not.

6 Q Have you had a discussion with anybody
7 regarding the RTC's investigation of Madison Guaranty
8 Savings & Loan?

9 A No, I have not.

10 MR. O'CALLAGHAN: Let's go off the record
11 for a second.

12 (Recess.)

13 MR. O'CALLAGHAN: I have no further
14 questions at this time, Ms. Thomasson. As you may or
15 may not be aware, the way this process normally
16 proceeds is the Majority asks the first questions and
17 the Minority has the option to ask additional
18 questions. If I feel the need to ask additional
19 clarifying, we will go back and forth. Hopefully it
20 will be a quick process today.

21 MR. WILLIAMS: Can I -- is it okay if I
22 visit with you all before you get started or do you

1 want to go ahead?

2 MR. COLE: I think I will go ahead. We can
3 then go off the record. Normally we take advantage
4 of the Minority's opportunity to ask questions if we
5 think there is something we can get out to help the
6 factual record of this deposition.

7 Today, though, Mr. O'Callaghan has been so
8 thorough in his questioning of you, including some
9 things that I think are not within the Resolution.

10 Putting that aside, it is pretty clear to
11 me that you don't have evidence testimony that you
12 can give to us to help us with the things we are
13 looking at. I can't think of any further questions
14 to ask you.

15 I note that because I don't know what is
16 going to happen with this committee after February
17 29th. As you and your counsel may know, at present
18 the funding for this Committee runs out on February
19 29.

20 In the event its work is extended and
21 continues beyond that, I also don't know whether or
22 not the Majority will choose to hold hearings on the

1 portion of the Resolution that we have primarily been
2 focused on today, the bond underwriting contracts
3 between Lasater & Company and ADFA.

4 I have real questions, based on the record
5 we have developed so far, on that subject as to
6 whether there is anything we have to hold hearings
7 on.

8 Putting that aside, it is abundantly clear
9 to me after hearing your testimony today, at least in
10 my view and the view I will share with the ranking
11 member of the Democratic members, it would not be
12 worthwhile or of benefit to the Committee to bring
13 you back for the public hearing.

14 Your counsel noted it costs him time and
15 money to accompany you, and you also have a position
16 in the administration that makes it difficult for you
17 to get away to appear in Congressional hearings.

18 I want to note the Minority's view,
19 recognizing that if new facts come to our attention,
20 the situation may change. I think you have been
21 extraordinarily cooperative today in answering all of
22 Mr. O'Callaghan's questions fully and to the best of

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1 your ability.

2 What you have really demonstrated is you
3 don't have anything to add to this area of inquiry.
4 We appreciate your coming, but we don't have any
5 questions.

6 Did you need to consult further,
7 Mr. Williams?

8 MR. WILLIAMS: No. Thanks. That takes
9 care of any need that I have to visit with you,
10 Lance, or Mitchell.

11 I would like to add this. It is extremely
12 expensive and burdensome for Patsy to bring me up
13 here. We volunteered to do this by telephone because
14 I was fairly certain that Patsy didn't have any
15 knowledge that would be helpful or relevant on the
16 issues.

17 Any time in the future that we can do
18 anything that would facilitate not having to come up
19 here and give a deposition, let me know and I will be
20 willing to reach almost any compromise.

21 MR. COLE: That's why I was glad to see
22 Mr. O'Callaghan do what he did, which was to go

1 through in a very thorough, complete way all the
2 areas in this resolution.

3 When you couple her testimony today with
4 her prior appearances before the Committee, hopefully
5 the expense and burden on her of having to provide
6 testimony has now been completed.

7 MR. WILLIAMS: That is another question I
8 would like to ask. Has anything not been covered
9 with Patsy under the Senate Resolution?

10 MR. O'CALLAGHAN: I cannot speak to whether
11 I have covered everything because I don't know what
12 the universe is. I have endeavored to ask her about
13 the items covered in the Resolution.

14 As far as what the factual record may
15 become or develop, to that extent, that will dictate
16 whether or not there is any need to call
17 Ms. Thomasson in the future.

18 MR. WILLIAMS: I understand that. As far
19 as we know, the facts we know right now, has
20 everything been covered?

21 MR. O'CALLAGHAN: I can't really speak to
22 that. We have been here and tried to be as thorough

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1 as possible.

2 MR. WILLIAMS: Okay.

3 MR. COLE: I think obviously, as we have
4 noted several times, there is some disagreement
5 between the Majority and the Minority about what
6 should be the scope of this inquiry into the bond
7 underwriting contract between ADFA and Lasater &
8 Company.

9 One reason I took the unusual step of
10 making the statement that I just did, because I
11 haven't done that with any other witness through
12 these proceedings, is that I know there are some
13 members of the committee on the Majority side who
14 have shown some inclination in the past to inquire
15 into areas concerning Lasater & Company that in the
16 view of the Minority and I think in some instances
17 even the Chairman has indicated are outside the scope
18 of this committee's investigative authority as set by
19 the full Senate.

20 I wanted to note the Minority's position on
21 further questioning of Ms. Thomasson for that reason,
22 but I don't think I need to say any more than that.

1 But I did want to explain why I made the
2 statement I did. It is not directed to you
3 personally, Mr. O'Callaghan. I am hopeful others on
4 the Majority side who will study this deposition will
5 consider the point I have made and consider whether
6 or not to bring Ms. Thomasson back to be a witness in
7 a public hearing.

8 Thank you.

9 MR. O'CALLAGHAN: Thank you. Thank you for
10 your time.

11 (Whereupon, at 3:15 p.m., the deposition
12 was concluded.)
13
14

15 PATSY L. THOMASSON
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CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey
Notary Public in and for the
District of Columbia

My Commission Expires

SEPTEMBER 14, 1996

**DEPOSITION OF THOMAS L. GOODWIN
IN RE: S. RES. 120**

MONDAY, FEBRUARY 26, 1996

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER
DEVELOPMENT CORPORATION AND RELATED MATTERS,
Washington, DC.

Deposition of THOMAS L. GOODWIN, called for examination pursuant to notice of deposition, at 1:05 p.m. in Room 534 of the Dirksen Senate Office Building, before BRENDA M. SMON-SKEY, a Notary Public within and for the District of Columbia, when were present:

MICHAEL P. O'CALLAGHAN, Esq.

Majority Associate Special Counsel

MITCHELL FEUER, Esq.

Minority Counsel

U.S. Senate

Committee on Banking, Housing, and Urban Affairs

534 Dirksen Building

Washington, DC 20510

On behalf of the Committee.

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PROCEEDINGS

Whereupon,

THOMAS L. GOODWIN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. O'CALLAGHAN: Good morning, Mr. Goodwin. My name is Michael O'Callaghan. I am an associate special counsel for the Special Committee. To my left is Mitchell Feuer who is counsel for the Minority.

This deposition is being conducted pursuant to Senate Resolution 120. The Resolution establishes a Special Committee administered by the Banking Committee to conduct an investigation involving Whitewater Development Corporation; Madison Guaranty Savings & Loan Association; Capital Management Services, Incorporated; the underwriting contracts from Lasater & Company; and the Arkansas Development Finance Authority, and other related matters.

This deposition is in advance of public hearings which may occur later this week. There is a chance you will be asked to testify at those

4

hearings. Mr. Feuer and I are going to ask you a series of questions today. You are testifying under oath. You were just sworn in. If you don't understand a question, let us know and we will be happy to rephrase the question for you. If you need a break at any time, let us know.

The stenographer is preparing a record of questions and answers. The deposition will be treated as committee confidential until the commencement of public hearings. Prior to the hearings, you will also have an opportunity to review the transcript. We will provide you with an errata sheet to make any corrections. It will also help you prepare for appearing before the Committee.

You may be represented by counsel today. Are you aware of that?

THE WITNESS: Yes.

MR. O'CALLAGHAN: Are you represented by counsel today?

THE WITNESS: No, I am not.

MR. O'CALLAGHAN: Objections to the form of questions will be noted for the record. Objections

1 on the grounds of privilege or relevance may be made
2 as well, and the Committee Chairman may rule on
3 objections where the witness refuses to answer the
4 question.

5 EXAMINATION

6 BY MR. O'CALLAGHAN:

7 Q Please state and spell your full name for
8 the record.

9 A My name is Thomas Logan Goodwin.
10 T-h-o-m-a-s, L-o-g-a-n, G-o-o-d-w-i-n.

11
12
13 Q Did you speak with anyone prior to this
14 deposition about the deposition?

15 A No one other than my wife, and I think a
16 neighbor that I just told I was coming up here.

17 Q No one other than that?

18 A No.

19 Q Did you do anything to prepare for the
20 deposition?

21 A No, I didn't, not really. No, I did. I
22 got some names.

6

1 Q Did you review documents?

2 A I did not.

3 Q How did you get the names?

4 A I just called and asked.

5 Q Did you call people at the state police?

6 A The fiscal officer of the state police, I
7 asked him the names of two attorneys that we worked
8 with.

9 Q What was the name of the fiscal officer you
10 spoke with?

11 A Bruce Waller, W-a-l-l-e-r.

12 Q Was Mr. Waller aware you were coming up
13 here for the deposition?

14 A Yes, he was.

15 Q Did he give you the names of the attorneys
16 that you asked for?

17 A Yes.

18 Q What were the names of those attorneys?

19 A May I look?

20 Q Sure.

21 A Paul Young, who was an attorney for T.J.
22 Raney & Sons, the law firm; and Anne Ritchey, who he

1 thought was with the Mitchell, Williams, Selig &
2 Tucker firm. She was a special counsel for the State
3 Police Commission.

4 Q Other than your call with Mr. Waller, did
5 you discuss anything related to this deposition with
6 anyone?

7 A No, not really. I honestly didn't have
8 anything to discuss.

9 Q Are you currently employed?

10 A Yes. I work with Midsouth Safety Council,
11 Incorporated.

12 Q What is your position there?

13 A Vice president.

14 Q How long have you been in that position?

15 A Less than a year.

16 Q What did you do before that?

17 A Well, I was with the state police for 38
18 years. The last 13 I was director of the state
19 police.

20 Q During the time period 1982 through 1986,
21 you were director of the state police?

22 A Yes.

1 Q During that time period, did you serve on
2 any commissions or any boards? That's the 1982
3 through 1986 time period.

4 A I did serve on several boards and
5 commissions. Because of the position, I served on
6 the state police Retirement System Board; the
7 supervisory board for ALETA, Arkansas Law Enforcement
8 Training Association -- it has been a while -- the
9 Alcohol and Drug Abuse Commission appointed by the
10 governor. I served on another board, and I'm trying
11 to think of the name of the board. It had to do with
12 the criminal justice information. Criminal Justice
13 and Highway Safety Information System, I served on
14 that supervisory board.

15 Q During that time period, did you serve as a
16 member of the Arkansas State Police Commission?

17 A No.

18 Q Did you attend Arkansas State Police
19 Commission meetings?

20 A During the 13 years, I may have missed one
21 meeting.

22 Q Was that one of your responsibilities as

1 director of the state police, to attend the
2 commission meetings?

3 A Yes, it was.

4 Q Are you familiar with the bond underwriting
5 that was undertaken in 1985 to provide capital for
6 the purchase of a new police radio system for the
7 state of Arkansas?

8 A Yes, I am.

9 Q How are you familiar with that bond
10 underwriting?

11 A As far as the mechanics of it, the actual
12 funding and everything, I'm not that familiar with.
13 I know how it came about. To begin with, we made a
14 study, a feasibility study to determine what we had
15 in terms of a communications system and what we
16 needed. That was done probably in 1983; '84 maybe.

17 Anyway, I believe in 1984, we had a trooper
18 killed on the highway in southeast Arkansas, and
19 where he was killed is one of the areas that we had
20 identified as a dead spot, which we used to enhance
21 our position on a new system.

22 We did the study. I went to the funeral of

10

1 the trooper with Governor Clinton, and en route to
2 the funeral, which was in Texarkana, Arkansas,
3 probably 150 miles southwest of Little Rock, I
4 briefly discussed with him a new communications
5 system.

6 Would you like to know the conversation?

7 Q If you could tell us the substance of the
8 conversation, yes.

9 A The best I can remember, there was not a
10 lot of conversation, because everybody knew that we
11 needed a new communications system. However, the
12 Governor asked me point blank what would one cost. I
13 had received a ballpark figure from a vendor who
14 indicated 17- to \$18 million.

15 At the end of our conversation about
16 that -- as I said, there was not a lot of
17 conversation -- Governor Clinton indicated that he
18 would support me in acquiring a system.

19 The system ended up costing considerably
20 more than that. In fact, the system to begin with
21 was \$29 million-plus, and I think maybe a year or a
22 year and a half into the project, we raised that

1 another either 1 million or \$1.25 million.

2 Q So, it ended up costing over \$30 million?

3 A Something over 30 million, yes.

4 Q With regard to the conversation you had
5 with the governor en route to the funeral, how long
6 of a car ride is it from -- where did you leave from,
7 Little Rock?

8 A We flew.

9 Q Whose plane did you fly on?

10 A I presume it was a leased plane, but I
11 don't know.

12 Q Was anyone else on the flight?

13 A There was a member of the governor's
14 security.

15 Q Do you recall who that was?

16 A No, I don't. And it seems like there was a
17 fourth person on there, but I'm not sure about that
18 either.

19 Q So, you remember that you were there, the
20 Governor was there and a member of his security
21 detail?

22 A Yes, and I'm not sure about a fourth

12

1 person.

2 Q The member of the security detail, would
3 that have been a member of the state police, a
4 trooper?

5 A Yes, it would have been.

6 Q How long was the flight?

7 A Well, it is 150 miles. So, probably not
8 over 35, 40 minutes.

9 Q Was this on a prop plane?

10 A It was a prop plane. It was a twin engine,
11 I want to say a Queen Air. That's gas.

12 Q You remember it had twin props, right?

13 A Yes.

14 Q Did you leave out of Adams Field?

15 A We left out of Adams Field, but not the
16 main part of the airport. We left out of an office
17 based on the east side of the airport -- on the west
18 side of the airport, excuse me. Adams Field terminal
19 is on the east side. We left the place where usually
20 private owners of aircraft usually keep their plane.

21 Q Do you know if it was over by Central
22 Flying Services?

1 A It was probably out of Central that we
2 flew.

3 Q Are you the first one who brought up the
4 subject about getting a new system on that flight or
5 did the Governor approach you about it?

6 A The best I can remember, yes, I was.

7 Q You broached the subject?

8 A Pardon?

9 Q You believe you brought it up?

10 A I believe I brought it up, yes.

11 Q Had you had conversations with the Governor
12 previous to this about the need for a new system?

13 A No.

14 Q Had you had discussions with anyone on the
15 Governor's staff about the need for a new system
16 before this?

17 A Not that I can recall. I may have. It was
18 not in the form of a request if I did.

19 Q You said you had been looking into getting
20 a new system for a while before that?

21 A I think maybe for two years, a good part of
22 two years.

1 Q So, the Governor's office had been aware --

2 A I'm sure they were aware that we were
3 looking and trying to write up some justifications,
4 but I don't think I ever talked to the Governor about
5 it. I really don't remember talking to any members
6 of the staff.

7 Q Do you remember who on the staff you had
8 contact with during this time period?

9 A Well, you nearly always -- you always have
10 contact with the chief of staff.

11 Q Who was that during this time?

12 A Betsey Wright, I'm sure, was at least part
13 of the time. Henry Oliver may have been chief of
14 staff for part of that time. I'm not sure about
15 Henry. I am sure that Betsey was there part of the
16 time at least.

17 Q Did you have any conversations with Sam
18 Bratton during this time?

19 A I don't believe I ever had any
20 conversations with Sam probably until after the
21 formal request and after it was all kind of in the
22 mill.

1 Q Did you have any contact with a gentleman
2 by the name of Michael Gaines?

3 A Yes. Mike Gaines, I think at that time,
4 was probably the liaison between the Governor's
5 office and law enforcement in general, Law
6 Enforcement Training Academy, the state police, the
7 Alcohol Beverage Control. I believe Mike was the
8 liaison then. I may have had conversations with him
9 too.

10 Q During the plane trip, when you first
11 informed the Governor that you would like to get a
12 new system, you said he asked you what it would
13 cost. What was his reaction when you told him how
14 much it would cost?

15 A Well, I've told this many times. I'm not
16 sure what happened, but I think I indicated that he
17 looked like he wanted to jump.

18 Q Were there any conversations about how the
19 state police would finance this purchase?

20 A If there wasn't then, it would not have
21 been long, and I don't know if -- if I didn't discuss
22 that with the Governor, I would have discussed it

16

1 probably with the chief of staff, Mike Gaines, and
2 possibly Sam Bratton but I doubt it.

3 Q Do you recall whether you talked about that
4 subject on the plane?

5 A No, I don't believe so. I don't think I
6 did. I was happy to get the go-ahead on it to
7 proceed.

8 Q Did the Governor make any suggestions on
9 how to proceed?

10 A Not that I can recall.

11 Q You said earlier that he said he would
12 support you on this?

13 A Yes.

14 Q Did he specify specifically what types of
15 support he would lend to getting the system?

16 A Well, obviously it would have taken the
17 support of the Governor with the legislature, and
18 probably that would have been the main support that
19 we would look for.

20 Q Any other type of support?

21 A I can't think of anyone else that would
22 require his support.

1 Q Do you recall the first conversation you
2 had that involved thinking of ways to finance the
3 purchase of a new system?

4 A Yes. Me and probably other members of the
5 state police, I'm sure, had discussed that. It was a
6 project that we didn't believe would go with general
7 revenue.

8 Q Why was that?

9 A Well, to begin with, I don't think it would
10 have been there.

11 Q The money wouldn't be there?

12 A The money wouldn't be there. Number two,
13 you are, I guess, fighting the remainder of state
14 government for general revenue. It probably doesn't
15 really make any difference that general revenue is
16 going to be, in the long run, affected.

17 We suggested strongly that we finance the
18 system with special revenue coming from driver's
19 licenses, the sale of driver's licenses each year.
20 It was a stable amount of money. You pretty well
21 knew what you were going to get every year and knew
22 that it was going to advance every year, more money

1 would be coming in each year.

2 So, that is the direction we went in.

3 Q Whose idea was it to use the driver's
4 license fees to pay for the system?

5 A I believe it was my idea. I guess you
6 always think it is your idea. It was either my idea
7 or someone suggested it to me and I carried it
8 through.

9 MR. FEUER: If you are in charge and it is
10 a good idea, it is your idea.

11 BY MR. O'CALLAGHAN:

12 Q Did you indicate to the governor on the
13 flight that that was one of the ways you were
14 thinking of paying for it?

15 A If I did, I don't remember, but I may
16 have.

17 Q I'm trying to see if he told you or asked
18 you how you were going to pay for it, it is a lot of
19 money and we are going to support you, but how are we
20 going to pay for it?

21 A It stands to reason that he would, but I
22 don't remember. I know it was discussed by me and

1 our staff prior to talking to the Governor.

2 Q Who were you talking to on your staff about
3 this project?

4 A Jim Tyler, Major Jim Tyler. At that time,
5 David Mosley. David was our fiscal officer. And
6 probably in a group the entire staff. Those were the
7 three that I would have talked more directly to in
8 terms of how we could do it or asked them how we
9 could do it, especially David Mosley.

10 Q I think you named two people, Jim Tyler and
11 David Mosley.

12 A Yes.

13 Q Anybody else?

14 A Yes. There would have been Major Richard
15 Rail.

16 Q How do you spell that?

17 A R-i-c-h-a-r-d and R-a-i-l. Major Quimby
18 Johnson, Major Jackson. That would probably have
19 been it. Jackson is Buren, B-u-r-e-n.

20 Q Was Jim Tyler a major also? Was he a
21 member of the state police?

22 A He was in charge of the administrative

1 services division. He would be the one -- he and the
2 people that worked under him would be doing the work
3 when we got started.

4 Q How about Major Johnson?

5 A Probably with all the others; it was just
6 an informative thing, just informing them what we
7 were doing.

8 Q Do you recall the first discussions you had
9 about financing the system after you spoke with the
10 Governor on the plane ride to the funeral?

11 A I honestly don't. I'm sure that probably
12 at every meeting I had or attended I talked about
13 it. As far as I know, none of these meetings were
14 recorded.

15 Q Would these is have been staff meetings?

16 A Staff meetings, meetings at the Capitol
17 Building with possibly -- I'm not sure about Major
18 Tyler, but I feel sure that David Mosley would have
19 been there because I didn't know enough about bond
20 issues to talk to them about it.

21 Q When you had meetings at the state capitol,
22 who did you meet with?

1 A Again, probably David Mosley from the state
2 police, Betsey Wright and whoever might have been
3 chief of staff during that time. It may have only
4 been her.

5 Q Do you remember a gentleman by the name of
6 Maurice Smith?

7 A Yes, I sure do.

8 Q Any meetings with him?

9 A I believe Maurice was chief of staff after
10 this.

11 Q I guess the question goes toward whether
12 you remember him sitting in on any of the meetings.

13 A I don't remember him being there. I can
14 remember that there were only seven or eight people.
15 You mentioned Mike Gaines. Mike was probably there.
16 Sam Bratton, because of his position, would have been
17 there. I would believe the head of the department of
18 finance and administration would have been there.

19 Q Who was that at that time?

20 A Let me think. I know he is dead at this
21 time.

22 Q Was it Mahlon Martin?

1 A Mahlon Martin, yes. I'm sure that he or a
2 representative would have been there.

3 Q Do you know anyone by the name of Ed
4 Erxleben?

5 A Yes.

6 Q Would Ed Erxleben have been at those
7 meetings too?

8 A Ed was in charge of purchasing, and he may
9 have been there. I don't remember him being there.

10 Q So, these meetings would have consisted of
11 members of the state police, members of the
12 governor's staff and members of the department of
13 finance administration. Was anyone else involved?

14 A No, I don't believe so. I can't remember
15 anybody else being there.

16 Q How many meetings would you say of this
17 nature that you had?

18 A Two, not more than three.

19 Q That's before the enabling legislation was
20 passed?

21 A Yes.

22 Q Did the Governor attend any of those

1 meetings?

2 A The Governor was there.

3 Q What type of issues were addressed at these
4 meetings?

5 A Prior to the passage of the Act, I'm sure
6 we talked about the leaders in the legislature and
7 making a presentation to them. They were fairly
8 instrumental in helping draw up the legislation. In
9 fact, they were about as broad as any I have ever
10 seen and probably ever will see.

11 It took us out of a lot of competitive
12 bidding as far as hardware was concerned for the
13 system, because it was a sole source item and had
14 been identified as that. But they were real
15 instrumental in putting it in the legislation where
16 we could work with it.

17 You asked me something else. I don't think
18 I answered. Didn't you?

19 Q I just asked you a general question about
20 the general subjects that were covered. You were
21 talking about the leaders in the legislature. You
22 said they took you out of competitive bidding. What

24

1 did that do?

2 A Well, if you have ever been involved in
3 competitive bidding -- and in state government, I
4 think at that time, anything over \$5000 required a
5 formal bid. It takes approximately three months to
6 get one approved. When you are looking at a system
7 that is over \$30 million, you do an awful lot of
8 bidding, an awful lot over the three months there.

9 It had already been identified as a sole
10 source item. Motorola was the only one that could
11 furnish a statewide system in the 800 megahertz
12 range.

13 Consequently, it was that we were able to
14 purchase what we needed without going through the
15 long process of probably three or four years of
16 bids.

17 Q When did the first discussions occur with
18 regard to -- during these meetings, were there any
19 discussions about using a bond offering or
20 underwriting as a part of the plan to do the
21 financing?

22 A If there was, I don't remember. It may

1 have been discussed, probably more among them than
2 with me.

3 Q Why is that?

4 A I think I'm the one that brought up the
5 driver's license. I think everybody approved of it
6 and went with it. I just don't recall any
7 conversation at the meetings about financing it
8 through a bond issue.

9 Q Did any of the lawyers that you referred to
10 earlier, Anne Ritchey or Paul Young, attend any of
11 those meetings?

12 A I don't believe they did, no. Let me back
13 up to the meetings just a minute.

14 Q Sure.

15 A Probably the chairman of the commission
16 attended those meetings.

17 Q Who is that?

18 A I believe it would have been Billy Simpson
19 at the time, and during the time and after we had
20 advertised for proposals, I believe Mr. Simpson
21 stepped down temporarily, I believe he did, as
22 chairman, and appointed Johnny Mitchum to act in his

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1 place on this particular transaction. If he didn't
2 step down, he allowed or he let Johnny Mitchum do a
3 lot of the presentations.

4 Q Let him do the lead on it?

5 A Yes.

6 Q Do you recall whether the meetings you had
7 took place before the beginning of the legislative
8 session, the meetings you just described? Was it in
9 the wintertime or fall?

10 A Are you talking about with the group over
11 at the Governor's office?

12 Q Yes, sir.

13 A I believe at least one of them would have
14 taken place. I can recall just two meetings. I'm
15 almost sure one of them took place before the
16 legislation was passed. That's almost positive.

17 Q Did Mr. Mosley tell you whether he had any
18 contacts with underwriters or any underwriting firms
19 before the legislation was passed enabling the
20 financing of the system?

21 A No, I don't recall any. I know David real
22 well. I'm going to say if David had contact with one

1 of them, he had contact with all of them. He is that
2 kind of person.

3 Q Do you recall when it was first discussed
4 to use an underwriter to do a bond issuance?

5 A I don't remember. It may have happened --
6 I know the driver's license money was brought up by
7 me. I guess I had that in my mind, but I don't
8 remember any issues that anyone brought up other than
9 that.

10 Q I'm going to show you a document, a
11 multipage document on T.J. Raney & Sons, Incorporated
12 letterhead, "investment bankers since 1931," dated
13 January 4, 1985. It is addressed to Mr. David
14 Mosley, Arkansas state police, regarding proposed
15 acquisition of the new radio communications
16 equipment, \$22 million anticipated cost. The third
17 page is signed Paul B. Young, Jr., vice president.

18 A Of T.J. Raney.

19 Q Yes.

20 A I just don't remember.

21 Q First of all, have you seen this document
22 before?

1 A No. Well, I say no. If I saw it, it was
2 10 years ago and I don't remember ever seeing it.

3 Q Looking at this, T.J. Raney & Sons was an
4 investment banking house and Paul Young is vice
5 president. Does that refresh your recollection
6 whether Mr. Young --

7 A Yes, I know Paul Young. Paul Young is one
8 of the names that I received when I contacted the
9 fiscal officer. I guess Paul probably was at every
10 commission meeting. With the exception of the
11 meetings at the Governor's office, I would imagine he
12 and Anne Ritchey were probably at all of them.

13 Q Does this refresh your recollection that
14 Mr. Young was associated with one of the
15 underwriters, rather than being an attorney with a
16 law firm?

17 A Do I recall that?

18 Q Yes.

19 A Yes, I knew he was with T.J. Raney & Sons.

20 Q The letter I just showed you, dated January
21 4, the first sentence "Dear David, over the past few
22 months we have been discussing the financing options

1 available for the above project." It says "you have
2 asked that we provide a summary of those options for
3 your use and make a presentation to the legislative
4 council next week. On behalf of T.J. Raney & Sons,
5 Lasater & Company, and E.F. Hutton & Company, we are
6 pleased to provide the following information."

7 Seeing how this letter is dated January 4,
8 1985, does that help refresh your recollection as to
9 when underwriters were first consulted?

10 A It doesn't really. I have no doubt that
11 they were. I guess I can't get off the driver's
12 license issue, the driver's license revenue issue.

13 Q Which may be redundant, but it also may
14 help you remember. I have a copy of a newspaper
15 article which I believe came from the Arkansas
16 Gazette, January 9, 1995.

17 MR. FEUER: It is dated 1985.

18 MR. O'CALLAGHAN: Yes. DKSJN 027486 is the
19 Bates stamp.

20 BY MR. O'CALLAGHAN:

21 Q I will read the first two paragraphs. "At
22 the request of Governor Bill Clinton and the Arkansas

1 legislative council, Colonel Tommy Goodwin has
2 compiled a list of alternatives for the outright
3 purchase of a new communications system. The list
4 includes proposals for a lease purchase arrangement,
5 the sale of certificates of participation and bonds,
6 and the establishment of an escrow account."

7 Does that help refresh your recollection as
8 to when the bond offering was first considered?

9 A It does and it doesn't. I don't doubt at
10 that time we did, but I think I probably had the
11 other part instilled in my mind enough that it didn't
12 really -- I hope in the article -- I don't think I
13 ever went with it or that I would have ever gone with
14 it.

15 Q As far as you recall, weren't the driver's
16 license revenues used in conjunction with the bond
17 offering?

18 A Yes.

19 Q Did anyone from any of the underwriting
20 firms attend any of the meetings you had at the state
21 capitol?

22 A No.

1 Q In any of the conversations that you had
2 with Governor Clinton with regard to the financing of
3 the system, did he ever mention that Lasater &
4 Company had an interest in doing the underwriting for
5 the system?

6 A Yes.

7 Q When did he mention that?

8 A I remember at least one of those meetings
9 was after the legislation had passed. Governor
10 Clinton, myself and a lot of other people knew that
11 Dan Lasater was a user of cocaine. The conversation
12 with Governor Clinton to that effect was we sure
13 don't want any firm involved in financing this that
14 is about to be arrested for selling cocaine.

15 I think he directed that statement to me in
16 particular.

17 Q Those are concerns he expressed at the
18 time?

19 A Yes.

20 Q What was your reaction?

21 A I didn't really have a reaction to it.
22 Like I said, it was rumored strongly that Dan Lasater

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1 was a user. It was not strongly suspected that he
2 was a cocaine dealer.

3 Let me think for just a second here. I
4 didn't do it personally, but I believe it would have
5 been through a captain in CID, and I will remember
6 his name in a minute, but I asked him to quietly find
7 out if there was any major investigation or any
8 investigation going on on Dan Lasater at that time.

9 We had a pretty good rapport with all of
10 the larger police departments there, and they did
11 find out that there were no investigations, ongoing
12 investigations.

13 Q Do you remember when you had the meeting
14 with Governor Clinton on this subject?

15 A The date?

16 Q Yes.

17 A No.

18 Q Approximate?

19 A No, I don't. But I say it had to be after
20 the legislation had passed, because these people had
21 already submitted their proposals or that
22 conversation would not have taken place.

1 In fact, the legislation, I'm sure you are
2 aware, put the burden on the State Police
3 Commission.

4 I just lost my train of thought when the
5 door opened.

6 MR. FEUER: You were saying the legislation
7 put the burden on the State Police Commission.

8 THE WITNESS: It was their responsibility
9 to see that that legislation was carried through.
10 They used the staff of the state police to do their
11 legwork for them and prepare all the documents, what
12 have you.

13 BY MR. O'CALLAGHAN:

14 Q We were talking about when the meeting took
15 place. You said you thought it was after the
16 legislative session because they had already put a
17 proposal forth.

18 A At least one of the meetings had to be
19 after that.

20 Q Do you remember who called the meeting?

21 A I would assume the Governor or his chief of
22 staff, one, or his chief of staff through the

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1 Governor.

2 Q Did you have more than one meeting on this
3 subject?

4 A That's the meetings I'm talking about. I
5 know we had two and possibly three. I'm not sure
6 about the third one.

7 Q These are meetings you had with the staff
8 members and the Governor?

9 A Yes.

10 Q This subject was brought up in one of those
11 meetings?

12 A Yes. The point I was about to make a few
13 minutes ago, I don't believe I can recall any member
14 of the commission that brought up Lasater's name as a
15 possible cocaine user or anything derogatory about
16 him. There were two commissioners that I can recall
17 that was against the three firms that joined in this
18 bid.

19 Q The Raney/Hutton/Lasater firms?

20 A Yes, but it was against E.F. Hutton. That
21 would have been Commissioner Gene Raff, R-a-f-f, and
22 Dr. Mashburn or Commissioner Mashburn from

1 Fayetteville.

2 Q That was during commission meetings?

3 A That was in an open meeting, I'm sure. I'm
4 not sure either, but I think it was. I'm positive it
5 was.

6 Q If I could get you to go back to the
7 meeting with the Governor's staff in the state
8 capitol.

9 A Okay.

10 Q How was the Lasater cocaine issue first
11 brought up? In what context?

12 A If I'm not mistaken, the Governor brought
13 it up. I don't think I'm wrong there. I believe he
14 brought it up, I just can't say that positively. The
15 way I recollect it, he brought it up.

16 Q Did he mention what his source of
17 information was?

18 A I think it was a general source. It was
19 pretty well known in the Little Rock area, or at
20 least it was pretty well talked about.

21 Q Did he mention whether he had personal
22 knowledge of Mr. Lasater's cocaine use?

1 A No.

2 Q Any mention of whether his brother told him
3 about it?

4 A No. If his brother told him about it, the
5 Governor didn't mention it, no.

6 Q I would like to show you a multipage
7 document. It is dated February 25, 1985. It is
8 addressed to Colonel Thomas L Goodwin. It is Bates
9 stamped DKSX 017894 through DKSX 017913. It is on
10 T.J. Raney & Sons, Inc., E.F. Hutton, Lasater &
11 Company letterhead, it appears.

12 It is not a signed cover letter. It says
13 "Very truly yours, Paul B. Young, Jr., vice
14 president, T.J. Raney & Sons, Steven A. Clayborn,
15 E.F. Hutton and Michael Drake, senior vice president,
16 Lasater & Company.

17 There is a table of contents and a
18 presentation or package proposal contained therein.

19 The first sentence "Dear Colonel Goodwin."
20 The heading, the re is regarding state police
21 communications financing. "The purpose of this
22 proposal is to set forth the recommendation for

1 financing the acquisition of complete communications
2 systems and related improvements for the state police
3 department."

4 I would like to have you take a look at
5 that, review it, and I would like to ask you some
6 specific questions about it. After you have had a
7 chance to go through the parts, I will ask you some
8 questions about it.

9 (Witness examined the document.)

10 MR. O'CALLAGHAN: Let's go off the record.

11 (Pause.)

12 BY MR. O'CALLAGHAN:

13 Q The document I just showed you is dated
14 February 25, 1985. Do you recall whether you
15 received a preliminary proposal from T.J. Raney, E.F.
16 Hutton and Lasater in or around February 1985?

17 A Do I remember it? No, I do not. I
18 remember some of the language in there, but as far as
19 remembering receiving this document, I'm sure I did,
20 but I don't remember. Probably what I would have
21 done with this document, as soon as I got it, would
22 have been to route it to David Mosley, and probably

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1 the chairman of the commission.

2 Q Mr. Simpson?

3 A If he was the chairman.

4 Q Do you recall whether you received any
5 proposals from Raney, Hutton and Lasater before the
6 legislation was passed?

7 A I presume we received proposals from all of
8 them prior to the actual effective date of the Act.

9 Q Do you recall that the request for
10 proposals went out after the Act was authorized?

11 A No, I don't remember.

12 Q Is it possible that the conversation you
13 had with Governor Clinton occurred before the
14 legislation was passed?

15 A I'm sure one meeting was. The way I
16 remember it, though -- and I can't think of any other
17 reason that it would have come up if Hutton, Lasater
18 and Raney had not already sent in a proposal. I'm
19 assuming that the proposals came in or they were at
20 least advertised for at the same time.

21 Q I can represent to you that the authorizing
22 legislation was signed by the Governor on April 4th,

1 1985. This proposal is dated February 25, 1985.

2 A Okay.

3 Q My question is just to help put in context
4 the time frame when the meeting with the Governor
5 occurred where you discussed Mr. Lasater, if it was
6 closer to February or was it after April, after the
7 legislative session?

8 A Number one, I don't remember them coming in
9 this early. I would think that if this one came in,
10 there should be others. They did come in prior to
11 the -- I recall at the joint budget meeting at the
12 Capitol Building while the legislature was still in
13 session, Mr. Jack Stephens who is with Stephens,
14 Incorporated, attended that meeting.

15 There were a lot of words thrown around.
16 Jack Stephens got very irate in that meeting. So
17 that knocks the theory I had in my head a few moments
18 ago. It would have been after the effective date.

19 Q Do you know what Mr. Stephens was irate
20 about at the joint budget meeting?

21 A I don't know if that is the date. I'm
22 presuming that's the date they awarded the contract

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1 to Hutton, Lasater and Raney, but I don't recall
2 that.

3 Q Do you recall what he was irate about?

4 A No. In fact, I don't think I was even in
5 the meeting itself. I was told.

6 Q What were you told?

7 A That Jack Stephens is very irate, that he
8 wanted the issue real bad himself.

9 Q Did anyone tell you specifically what he
10 was irate about?

11 A No. Well, I said no. I don't recall.

12 Q But you recall that was at a joint budget
13 meeting?

14 A I don't believe I testified I was at the
15 meeting at all. In fact, I don't think I was inside
16 the room, because I remember seeing Jack Stephens,
17 and apparently he got very irate with some Senators
18 or Representatives who were there in that meeting.
19 It could be that the meeting was over with and all
20 this occurred directly after the meeting, before the
21 crowd was -- while the crowd was still there. I
22 don't think I would have forgotten if I had seen it.

1 Q Directing your attention to a document I
2 just showed you, Bates stamp 17894 through 17913.
3 There is an Exhibit A attached which I believe is
4 the --

5 A The legislation.

6 Q 17905. Appears to be an act for
7 communication equipment for the Arkansas State
8 Police, providing for payment and security for the
9 cost of the equipment and for other purposes.

10 Do you recall whether T.J. Raney, Hutton
11 and Lasater provided drafts of the authorizing
12 legislation for the purchasing of the equipment?

13 A No. I remember -- in fact, I remember
14 attending some meetings. I remember one in
15 particular where Senator Knox Nelson -- I guess he
16 was chairman of the joint budget committee --

17 Q Did he chair the communications study
18 committee?

19 A Maybe that's what it was. It may have been
20 both. I don't know.

21 I can remember attending a meeting in a
22 room which I am going to say was his office, but

1 there was standing room only. Of course, it was a
2 small office to begin with.

3 Q That's in Senator Nelson's office?

4 A Yes.

5 Q Okay.

6 A They were wanting to assure that we did not
7 get our hands tied by legislation that they were
8 offering. I think they had the legislative council
9 staff or joint budget staff do a lot of work on the
10 legislation.

11 Q Were you aware whether Anne Ritchey had
12 been hired by Lasater & Company or Raney and Hutton
13 to draft legislation for the radio project?

14 A No.

15 Q You never --

16 A If I was aware of it, I don't recall it. I
17 don't know who would have asked me.

18 Q Are you familiar with a gentleman by the
19 name of Michael Drake?

20 A Yes.

21 Q Did he work for Lasater & Company?

22 A He is the only one I remember that was even

1 at the meetings representing Lasater.

2 Q At the commission meetings?

3 A There may have been more, but he made more
4 noise than any of them, if he wasn't the only one
5 there. If there was more than him --

6 Q Did he ever tell you Lasater & Company had
7 hired the Mitchell, Williams, Selig law firm to draft
8 authorizing legislation?

9 A I don't recall that. If that would have
10 even been the policy, I don't recall that. If it
11 would have been their policy to employ someone or
12 suggest that someone be hired, no. That would have
13 meant it was probably made to the commission.

14 Q Did Ms. Ritchey attend any of the meetings
15 you had with the Governor's staff?

16 A I don't believe so. I remember seeing
17 Ms. Ritchey several times but probably more after the
18 fact than before the fact. I remember her being real
19 easy to work with, at least as far as I'm concerned.
20 She knew what she was doing; maybe that's because I
21 didn't know what she was doing.

22 Q As far as you know, who was she employed by

1 at the time you were working on the committee?

2 A That's one of the ones that I was told a
3 couple days ago worked for Mitchell, Williams,
4 Selig.

5 Q Do you know who hired her to work on this
6 issue?

7 A I have no idea.

8 Q I'm just trying to put this meeting with
9 the Governor in context. That's why I have been
10 showing you these different documents.

11 With regard to the meeting with the
12 Governor where Mr. Lasater was discussed, do you know
13 whether or not Lasater & Company and Hutton and Raney
14 had already received the contract, or was it still
15 under consideration who to choose?

16 A Obviously, based on my conversation a few
17 minutes ago, I thought it was still ongoing, because
18 here I am looking at Lasater to see if it looks like
19 he is about to get in trouble before we even
20 considered involving him.

21 Q Did --

22 A I can only say that if it passed in

1 April -- and I don't remember this -- but apparently
2 the Governor put an emergency clause onto it.

3 Q Yes, sir.

4 A It became effective the date he signed it
5 instead of 90 days after. That letter I think would
6 still be before the date it was signed, but I don't
7 know.

8 Q This is February 25th. At any of the
9 meetings you had with the Governor or the Governor's
10 staff, did anyone mention a preference for any of the
11 underwriters that were making proposals?

12 A No. In fact, I don't think -- if they had
13 a preference, I don't think they would have said
14 anything to me because I really had nothing to do
15 with selecting those people.

16 Q Do you know if --

17 A Can I back up a minute?

18 Q Certainly.

19 A I said I didn't have anything to do with
20 it. I probably did too, in an unofficial way. I can
21 recall the Governor asking me what do you think, is
22 it a good proposal, and I told him everything I get

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1 from our commission members and everybody I talked to
2 says it is a good proposal.

3 Q Is this the Lasater proposal you were
4 referring to?

5 A The last proposal?

6 Q No. I'm sorry. The Lasater proposal.

7 A Yes. In fact, I had one afterwards, one
8 person tell me that they were lucky, they just
9 happened to hit it right, they just happened to get
10 the interest rate and everything. That was a member
11 of another firm, not the member of Hutton, Lasater
12 and Raney.

13 Q When did he ask you if you thought it was a
14 good proposal?

15 A At one of those meetings. It had to be
16 before it was approved or he wouldn't have been
17 asking.

18 Q Did he ask you about the other proposals or
19 just about that one proposal?

20 A That's the only one I can recall him asking
21 about. I think it was pretty well a consensus that
22 they submitted the best proposal.

1 Q Did he say why he asked you about the
2 Lasater proposal?

3 A Did he say what now?

4 Q Did he reference why he asked you whether
5 it was a good proposal?

6 A The Governor?

7 Q Yes.

8 A I think he was wanting my opinion.

9 Q During that conversation, did he mention
10 that he had a preference for that proposal or for any
11 other?

12 A No.

13 Q During the meetings you had at the Capitol
14 Building, did anyone on the Governor's staff or the
15 Governor mention a preference for any of the
16 underwriters?

17 A I don't recall ever having anyone -- I
18 don't even remember the commission -- but obviously
19 they went with it. But no one, the Governor or the
20 Governor's staff, indicated any preference for
21 anybody.

22 Q That you are aware of?

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1 A No.

2 Q When the Governor asked you for your
3 opinion about the Lasater proposal, was that during
4 one of the legislative meetings or commission
5 meetings?

6 A No, no. It was a private meeting and it
7 would have been in the chief of staff's board room or
8 conference room.

9 Q In the state capitol building?

10 A Yes.

11 Q It would have been in Betsey Wright's
12 office?

13 A I would say yes, it was Betsey's office.

14 Q Do you recall anything else that was
15 discussed during that meeting?

16 A No. In fact, they were not long meetings.

17 MR. O'CALLAGHAN: Let's take a quick break
18 here.

19 (Recess.)

20 BY MR. O'CALLAGHAN:

21 Q I would like to ask you a couple more
22 questions about the meetings you had with the

1 Governor's staff and the Governor. I just want to
2 make sure we are clear and make sure it is clearly
3 identified on the record. I believe you said there
4 were how many meetings -- let me rephrase that.

5 How many meetings were there with the
6 Governor and the Governor's staff before the
7 legislation was passed?

8 A I thought there was two. You changed my
9 mind on that.

10 Q You think there were more than that now?

11 A Obviously at least one of them had to be
12 after --

13 Q One of the meetings that you thought was
14 after was before?

15 A One of the meetings had to be after the
16 legislation was passed. Is that not what you asked
17 me?

18 Q The first question I asked you was how many
19 meetings occurred before.

20 A Oh. I'm going to say one, one meeting.
21 That's the best I can guess on a date, that there
22 would have been one, and at least one after.

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1 Q During the meeting before, did you discuss
2 the proposed legislation?

3 A I'm sure we did.

4 Q What would have been the main focus of the
5 meetings before the legislation passed?

6 A I think the main focus of the meeting was
7 to determine -- to begin with at least -- to
8 determine how we were going to finance it, how it was
9 going to be done.

10 Q How it was going to be financed?

11 A If the driver's license revenue was going
12 to be used, or if some other method was going to be
13 selected.

14 Q You don't recall whether or not
15 underwriting was discussed?

16 A No, I really don't. But it probably was.

17 Q Do you recall whether Sam Bratton or anyone
18 else on the Governor's staff said they met with
19 people in the underwriting business about doing
20 financing for this?

21 A I don't recall it, no.

22 Q Did you review drafts of proposed

1 legislation during those meetings?

2 A No.

3 Q Nobody presented that?

4 A No.

5 Q Was this a bigger picture type meeting?

6 Were documents handed out? Was it just a general
7 discussion?

8 A I don't even recall any documents being
9 handed out. I think it was just a general meeting to
10 get together and say here we are and where are we
11 going from here. To begin with, the people that were
12 at that meeting had no authority to officially do
13 anything.

14 Q What do you mean by that?

15 A Well, it is still left up to the State
16 Police Commission to select the party and make the
17 determination. I'm not saying that the people who
18 were there couldn't have had a bearing on it. But I
19 don't recall that even taking place. In fact, I
20 really don't recall a commissioner being there, but I
21 feel sure that one was.

22 Q Did people from the State Police Commission

1 interact with people in the Governor's office with
2 regard to working on proposed legislation?

3 A From what commission?

4 Q From the State Police Commission. Did they
5 work together on the legislation?

6 A They may have been present. I think what
7 the State Police Commission acted on more than
8 anything else was the finalized contract.

9 Q The proposals?

10 A The proposals and the funding. The State
11 Police Commission is seven people that only meet once
12 a month.

13 Q I'm going to show you a copy of Act 817,
14 which I believe was the authorizing legislation for
15 the system. It is a multipage document, Bates DKS
16 018193 through DKS 018199.

17 I will give you a copy of that. I direct
18 your attention to the last page of it which has a
19 signature "approved by governor," and it is Bill
20 Clinton's signature, with 4/4/85.

21 A All right.

22 Q Have you seen this before?

1 A I probably have. I'm sure I have.

2 Q Do you recall whether you were aware that
3 underwriting was going to be utilized, bond
4 underwriting, before this was signed, or did you find
5 out after the legislation was passed?

6 A I don't know. I'm not being evasive.

7 Q I understand.

8 A If it was done prior to, I'm sure I knew
9 about it.

10 Q The meeting you had with Governor Clinton
11 which I believe you said occurred after the
12 legislation was passed, where he asked you about Dan
13 Lasater, you said you directed someone to look to see
14 if there were any pending investigations?

15 A Yes.

16 Q You said you turned to a captain who was in
17 CID?

18 A I probably didn't go to the captain. Yes,
19 I believe I did, in person, Captain Doug Stevens.

20 Q How do you spell that?

21 A D-o-u-g-l-a-s, and S-t-e-v-e-n-s.

22 I would have also contacted his boss who

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1 was Major Quimby Johnson. I'm sure I would have made
2 him aware of it.

3 Q Do you remember exactly what you directed
4 them to do?

5 A Sure, I know what I asked them to do. Find
6 out if there was any investigation going on of Dan
7 Lasater. I asked them to do it very quietly.

8 Q Why did you ask them to do it quietly?

9 A You are not going to ask the Little Rock
10 Police Department something that would interfere with
11 their investigation. That is one thing that Doug
12 would have done, would have protected whatever they
13 were doing.

14 Q You say the Little Rock Police Department.
15 Was that a more local police entity versus the state
16 police?

17 A Well, larger. That's where Dan Lasater
18 lived. If I recall right, we asked the North Little
19 Rock Police Department, the Little Rock Police
20 Department and the Pulaski County Sheriff's
21 Department.

22 Q Did you ask anyone at any federal

1 authorities?

2 A I don't recall whether we did or not. I
3 don't believe we did. If we did, they probably would
4 not have told us.

5 Q At this meeting, do you recall who else was
6 at that meeting?

7 A At the Governor's?

8 Q Yes.

9 A No one other than what I have already told
10 you.

11 Q The general group of people you identified
12 earlier --

13 A Yes.

14 Q -- including David Mosley, Betsey Wright,
15 Michael Gaines, Sam Bratton and possibly Mahlon
16 Martin and Ed Erxleben?

17 A Yes.

18 Q Was this a question he posed to the whole
19 group or did he pull you aside privately?

20 A I don't recall how he posed the question.
21 I thought about that. I can't really see him asking
22 me that question in front of the entire group, but I

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1 don't remember talking privately with him so maybe he
2 did.

3 Q Did anyone else comment on the subject,
4 anyone else show concern?

5 A I don't recall anybody asking about it.

6 Q No other conversation with anybody there?

7 A No. If anybody would have, it would have
8 probably been Betsey, but I don't recall her asking
9 anything.

10 Q After you had spoken with either Major
11 Stevens or Major Johnson, you said after speaking
12 with the North and South Little Rock Police
13 Departments and Pulaski County Sheriff's Department,
14 that they didn't uncover any evidence of
15 investigation involving Mr. Lasater; is that right?

16 A That's the information I got back, yes.

17 Q What did you do after you got that
18 information?

19 A I'm sure I relayed that to the Governor.

20 Q Would you have relayed it personally?

21 A Yes. I don't remember doing it, but I'm
22 sure I did it, and I did it personally.

1 Q Do you remember his reaction when you told
2 him that?

3 A No.

4 Q How long did it take before you found out,
5 from when you heard back from them?

6 A A short period of time, probably a week or
7 less.

8 Q Do you know if you heard back before the
9 final bids, final contracts were awarded?

10 A I don't remember, no.

11 Q Did you inform anyone on the commission
12 that you were looking into whether any investigations
13 were ongoing of Mr. Lasater?

14 A I don't recall. I don't recall bringing it
15 up to the commission. If I did, it probably would
16 have been in private to the chairman of the
17 commission. I'm sure I wouldn't have done it in open
18 meeting.

19 Q You testified earlier that you thought
20 someone from the commission might have been at the
21 meeting with the Governor?

22 A If there was a commissioner there, it

1 probably would have been Billy Simpson at least at
2 one meeting and possibly Johnny Mitchum.

3 Q Who is Johnny Mitchum?

4 A Johnny Mitchum was the commissioner who
5 owned several large CPA firms. He was one of the few
6 commissioners that was knowledgeable in this. He
7 actually took the proposals home with him, I think,
8 and -- I say I think but I know he did -- and I'm
9 presuming at one of his offices ran it through the
10 computer and brought it back and made a presentation
11 to the commission, and later made the same
12 presentation to the joint budget committee.

13 Q So, the analysis he did, he used the same
14 analysis when presenting it to the committee, the
15 police commission committee as he used the same
16 materials for the legislative committee?

17 A That's my understanding, or at least
18 basically the same way. He probably got more
19 questions from joint budget than he did in the
20 commission meeting.

21 Q I want to go back to this quickly and then
22 move on. When you spoke to the Governor about

1 whether there were any investigations pending for
2 Mr. Lasater, do you recall whether he said good, then
3 go ahead and conclude them and look at the proposals?

4 A I don't even recall telling him about it,
5 but I know that I did. The idea was to check and let
6 him know. So, no, I don't remember his reaction.

7 Q At the time that you did that check for the
8 investigations, were you aware that -- do you know a
9 man by the name of Mike Mahone?

10 A Yes.

11 Q How do you pronounce that?

12 A Mahone.

13 Q M-a-h-o-n-e?

14 A That's correct.

15 Q Do you know whether Mr. Mahone ever
16 interviewed Mr. Lasater in connection with the
17 investigation of Sam Anderson?

18 A I don't think anybody knew about it at the
19 time he was making the interviews.

20 Q Why is that?

21 A I think Mike got involved in some
22 investigations that he was not even assigned. The

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1 lawyer in Hot Springs you just mentioned, what was
2 his name that you asked me about?

3 Q We can try to identify his name later. You
4 were saying about Mr. Mahone?

5 A The best I can recall, Mahone got involved
6 in an investigation in Hot Springs of an attorney
7 there, and in turn, he apparently got information on
8 Lasater and started to interview him without the
9 knowledge of even his immediate supervisor.

10 Q Do you know when that occurred?

11 A Who?

12 Q Do you know when that interview occurred?

13 A It would probably have been -- it would
14 have had to have been the latter part of '86, during
15 the calendar year of 1986 at least when we began an
16 investigation on Lasater, when the state police began
17 an investigation on him.

18 MR. FEUER: Mr. Goodwin, I'm going to jump
19 in here for a second, because this gets a little bit
20 complicated and there are some issues between the
21 Republicans and the Democrats over the scope of this
22 investigation and what is proper for us to ask you in

1 the course of this deposition and in the course of
2 any hearings if you are called to testify as a
3 witness.

4 Our authority to ask you questions is
5 derived from a resolution passed by the Senate, and
6 that resolution authorizes the Committee to
7 investigate the bond underwriting contracts between
8 Lasater & Company and the Arkansas Development
9 Finance Authority.

10 The Resolution itself doesn't even say
11 anything about the Arkansas State Police Commission,
12 but for purposes of these depositions, the Democrats
13 have not objected to inquiry into the underwriting
14 for the State Police Commission bonds that Lasater &
15 Company did in 1985.

16 But we do -- for that reason and continuing
17 that inquiry, we think it is fair to ask you
18 questions about what your knowledge was up to the
19 point that the bonds for the police radio system were
20 issued in May of 1985, but not to ask you about
21 things that you then learned in 1986 or after the
22 bonds were issued.

1 MR. O'CALLAGHAN: Unless they are relevant
2 to people's knowledge during the time the bond --

3 MR. FEUER: Right. Mr. O'Callaghan might
4 ask you did you learn after 1985 -- he might ask you
5 did you learn after 1985 what somebody else knew in
6 1985. But as to things that happened later and
7 things you learned about later, we take the position
8 that those are not within the scope of this
9 investigation and this deposition today.

10 BY MR. O'CALLAGHAN:

11 Q To the best of your recollection, that was
12 1986; is that right?

13 A What's that?

14 Q That Mr. Mahone interviewed Mr. Lasater.

15 A We are back where we started?

16 MR. FEUER: Yes. Michael, why don't you --
17 I think perhaps the way to get at that was if he was
18 aware of that occurring up to the point the bonds
19 were offered, or if Lasater & Company was selected as
20 the underwriter, which was May of 1985.

21 BY MR. O'CALLAGHAN:

22 Q Were you aware of Mr. Mahone's interview of

1 Mr. Lasater at any time -- let me ask you this: When
2 did you become aware of Mr. Mahone's interview of
3 Mr. Lasater?

4 A I believe it was 1986.

5 Q That's when you became aware of it?

6 A Yes.

7 Q Do you recall how far from the current
8 subject that you learned about it? Was it shortly
9 thereafter, a year after, a couple months?

10 A I would have to look at our investigative
11 file and just say it was within that period of time.

12 MR. FEUER: That's what we don't want to
13 get into here. We do not have the authority to go
14 back and review the Arkansas State Police
15 Commission's investigation unless and only to the
16 extent that it somehow has anything to do with the
17 bond underwritings.

18 BY MR. O'CALLAGHAN:

19 Q You first became aware of it in connection
20 with the state police's investigation of Mr. Lasater;
21 is that what you are saying?

22 A That's correct.

1 Q And that investigation didn't begin until
2 when?

3 A Again, I believe it was 1986 when it
4 began. I know it was after the transaction.

5 Q Did anyone at the Arkansas State Police
6 have knowledge of Mr. Mahone's interview with
7 Mr. Lasater prior to that time, other than
8 Mr. Mahone?

9 A I don't think so, no.

10 Q Did he tell his supervisor about it?

11 A No.

12 Q How do you know he didn't tell his
13 supervisor?

14 A Well, if he told his supervisor, his
15 supervisor didn't tell me.

16 Q That's something that normally would have
17 happened?

18 A Yes.

19 Q Who was the supervisor at the time?

20 A Again, Major Johnson was over the division,
21 and probably Captain Stevens was his immediate.

22 Q You said CID earlier. What does that refer

1 to?

2 A Criminal investigation division.

3 Q I forgot to ask you that earlier. There is
4 a lot of alphabet soup here, so sometimes it is good
5 to identify what initials stand for what.

6 During February 1985, were you aware of a
7 trial involving Sam Anderson that was being conducted
8 in Hot Springs?

9 A I couldn't have told you it was early in
10 1985.

11 Q When it was going on you were aware of it?

12 A I was aware of it, yes.

13 Q Did you follow it in the papers?

14 A I probably did.

15 Q During that time, were you aware of any
16 testimony given in that trial with regard to Mr.
17 Lasater being the prospective target of a cocaine
18 sting?

19 A No.

20 Q Was anyone at the state police aware of
21 that that you know of?

22 A Not that I can recall. In early 1985?

1 Q Yes, sir.

2 A No. If they were, I asked the wrong
3 people.

4 Q Does it refresh your recollection if I told
5 you that Mr. Anderson testified to that effect?

6 A It wouldn't make any difference to me. I
7 don't recall.

8 Q Do you recall attending a State Police
9 Commission meeting shortly after or the same day that
10 the legislation was passed authorizing the radio
11 system, the purchase of the radio system?

12 A I don't remember it, but I'm sure that I
13 probably did.

14 Q That's why we have documents here to show
15 you, to help you with your memory.

16 I have a multipage document here, minutes
17 of Arkansas State Police Commission meeting April 4,
18 1985, bearing Bates stamps DKS N 027582 through DKS N
19 027586.

20 I show that to you. Take a moment to
21 review it and then I will ask you some questions.

22 (Witness examined the document.)

1 BY MR. O'CALLAGHAN:

2 Q While you were with the state police, did
3 you generally receive minutes of the meetings?

4 A My office kept the minutes of the meetings,
5 yes.

6 Q After reviewing this document, do you
7 recall attending an April 4th meeting of the State
8 Police Commission?

9 A Yes, I do. I don't recall the meeting, but
10 I remember the events that occurred.

11 Q That are represented that occurred?

12 A Yes.

13 Q On page 27584, I would like to direct your
14 attention, underneath the heading "State Police
15 Communications Act," which I guess -- I note here the
16 State Police Commission wasn't aware that the
17 governor had signed -- the governor hadn't signed the
18 bill yet. "House Bill 914 has not been signed by the
19 governor," even though the governor's signature
20 appears on April 4th on the bill.

21 MR. FEUER: It could have been signed later
22 in the day.

1 MR. O'CALLAGHAN: Yes.

2 THE WITNESS: I did notice that.

3 BY MR. O'CALLAGHAN:

4 Q Referring to the Act, the minutes state
5 underneath that heading "The Act will also allow the
6 Commission to proceed without adhering to normal
7 state processes but prior to any obligation being
8 incurred by the Commission, any contract agreement or
9 proposal must be submitted to the communication study
10 committee of the legislative counsel for their
11 review."

12 What does that mean, that the commission
13 can proceed without adhering to normal state
14 processes?

15 A I think I mentioned a few minutes ago that
16 the Act exempted us from certain things, and that's
17 probably why Mr. Erxleben was at that meeting. He
18 was probably the most knowledgeable -- he is the most
19 knowledgeable person in the state government in
20 Arkansas when it comes to purchasing.

21 I don't know -- where were you reading?

22 Q It is the fourth paragraph down underneath

1 the "State Police Communications Act" heading. It
2 starts with "The Act will also allow the Commission
3 to proceed without adhering to normal state
4 processes."

5 (Witness examined the document.)

6 A All right.

7 Q I guess my question is, do you know what
8 the normal state processes are that are being
9 referred to?

10 A This is part of the normal policy that they
11 are requiring, someone is requiring, that the State
12 Police Commission go through the communications
13 committee. Prior to going to that committee, you
14 have to go through the department of computer
15 services who apparently has the facilities where the
16 communications committee meets. And the
17 communications committee is made up of I think one
18 legislator and a group of citizens. Before you can
19 buy a pocket telephone, you have to go through the
20 communications committee.

21 Does that answer your question?

22 Q That's the normal process that is used?

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1 A Yes.

2 Q The next paragraph, which is a sentence,
3 "The recommendation is made that the financial team
4 be selected as soon as possible so that they may be
5 involved in negotiations with Motorola."

6 Do you recall who made that recommendation?

7 A No, I don't, but I'm going to say that it
8 was probably the chairman of the commission.

9 Q That would have been Mr. Simpson?

10 A Yes.

11 Q The next paragraph reads "After lengthy
12 discussion between members of the commission, Mr. Ed
13 Erxleben and Mr. Dudley Meadows of state purchasing
14 and representatives of several financial firms
15 concerning procedures to follow regarding the
16 acquisition and financing of the communications
17 equipment, the commission agreed to begin immediately
18 the process of selecting a financial institution to
19 handle the financing."

20 Do you recall those discussions?

21 A Not really. I know they took place.

22 Q Do you recall members of financial firms

1 attending the meeting?

2 A No, but the best I can recall, the
3 boardroom was full of people that day. I honestly
4 don't even know how many people made a proposal.

5 Q I would like to direct your attention to
6 the first page of the minutes where under the
7 heading -- first says "members present and members
8 absent, state police personnel attending" which I
9 point out your name is listed first.

10 It says "others attending" and it lists
11 Mike Gaines, Randall Miller, Mike Storms, Ed
12 Erxleben, Dudley Meadows, Bob Harbin, Bo Marshall.
13 And it has a list of representatives from Lasater &
14 Company, E.F. Hutton, and T.J. Raney & Sons: Michael
15 Drake, Anne Ritchey, Bill Woodyard, Paul Young and
16 Robert Brown.

17 Do you recall any of those people attending
18 the meeting?

19 A I don't recall them being there, but I'm
20 sure they were.

21 Q Do you recall them engaging in discussions
22 about selecting a financial institution to handle the

1 financing?

2 A No, but that's probably what the meeting
3 was about. I'm not being evasive, by the way, when I
4 don't remember.

5 I remember the meeting and I can remember
6 it from reading this, but that is the only way.

7 Q On page 27585, it reads "Chairman Simpson
8 appointed the following committee to review and
9 evaluate proposals to make preparations for the firms
10 they select to make a formal presentation to the
11 commission: Colonel T.L. Goodwin, Mr. David Mosley,
12 Mr. Ed Erxleben, Mr. Dudley Meadows, Commissioner
13 Johnny Mitchum and Commissioner Bill Simpson," it
14 reads.

15 Do you recall that committee being named?

16 A Yes, I do.

17 Q You served on that committee?

18 A I served on that committee, yes.

19 Q And then if you look at the next page, the
20 top of the page under "other business" says "Change
21 in committee to review financial proposals for
22 communications system. Commissioner Simpson

1 announced a change was made in the committee. Major
2 Tyler was added to the committee. Also instead of
3 only two members of the commission serving on the
4 committee, the entire commission will serve. It was
5 agreed that Commissioner Simpson will chair the
6 committee and Colonel Goodwin will serve as
7 cochairman."

8 Did you serve as cochairman to the
9 committee?

10 A I'm sure I did.

11 Q Do you recall there being additions made to
12 the committee during that meeting?

13 A I recall Major Tyler was added to it. I
14 didn't recall they added the entire commission to it.

15 Q Do you recall why a change was made?

16 A No.

17 Q Further down, underneath "executive
18 committee," it reads "It was suggested that an
19 executive committee be appointed to handle day-to-day
20 matters relating to the communications system in the
21 interim between commission meetings. Commissioner
22 Simpson appointed the following committee: Colonel

1 T.L. Goodwin, Major Tyler and Major Mosley.

2 A I recall that.

3 Q Did that executive committee have separate
4 meetings?

5 A Not really. What these three people were
6 appointed for was to sign certain documents, just
7 everything that was needed in order to keep it going
8 because it was not feasible to drive to Stuttgart or
9 Brinkley, Arkansas to get Commissioner Simpson's
10 signature on something every time a piece of paper
11 came across.

12 The three of us collectively, and I
13 wouldn't say in a formal meeting, but either a
14 face-to-face or telephone conversation, we took care
15 of the routine matters that would not be feasible for
16 the commission to take care of.

17 Q Were you all located in Little Rock?

18 A Yes.

19 Q Was that part of the consideration?

20 A Yes.

21 Q After the April 4th meeting where it was
22 determined to look for a financing institution to

1 handle the financing, what was the next step that the
2 commission took?

3 A From the refreshment I just got was to
4 probably ask for proposals again -- or ask for
5 proposals, not again.

6 Q After looking at that document -- we have
7 been through the stages of this process -- does that
8 refresh your recollection whether the conversation
9 you had with Governor Clinton was before or after
10 this time period?

11 A No, it really doesn't, because the -- I
12 don't think anything that was signed in April, May or
13 June didn't go into effect until July 1 or later. I
14 still think that the question he put to me was before
15 Hutton, Lasater and Raney had been selected. I can't
16 give you a date.

17 Q Also you said earlier there was emergency
18 language in legislation which made it effective
19 immediately; is that right?

20 A Yes.

21 Q Did there come a time when the commission
22 or the financial screening committee sent out

1 requests to different underwriting firms?

2 A Yes.

3 Q How many proposals did --

4 A I don't recall. I know that's why
5 Mr. Erxleben and Meadows were put on that committee,
6 was to assist us in advertising for proposals.

7 Q Do you recall whether, during any meetings,
8 whether any of the underwriters were opposed to
9 requests for proposals going out?

10 A I don't recall that.

11 Q The reason I ask is that I showed you
12 earlier a document Bates stamped 017938, which was a
13 letter from T.J. Raney & Sons, to provide a summary
14 of options for financing for the radio system from
15 T.J. Raney & Sons, Lasater & Company and E.F.
16 Hutton. And I also showed you a proposal that was
17 made on February 25th by T.J. Raney, E.F. Hutton and
18 Lasater & Company. I just showed you minutes from
19 the board meeting of April 4 where the T.J. Raney,
20 E.F. Hutton and Lasater people were involved in
21 discussions in choosing the financing institution to
22 do the underwriting.

1 I guess the more general question is, did
2 that help refresh your recollection as to the content
3 of the discussions that involved those people at the
4 meeting, whether they were proposing themselves as
5 underwriters?

6 A No, but I think it is apparent the first
7 proposal they sent in apparently wasn't accepted by
8 the commission. A later proposal was required, and
9 no, I don't recall. They apparently did, but I don't
10 recall them.

11 Q What did they discuss at the meeting?

12 A No, asking about Anne Ritchey. Anne
13 Ritchey has a reputation in Little Rock of being one
14 of the best and that she could probably have done the
15 job without being involved in anything except what
16 she does. But I don't recall that.

17 Q Are you aware whether the financial
18 screening committee ever had any closed meetings that
19 you are aware of?

20 A I don't know if we ever closed any
21 meetings. There may have been meetings in the board
22 room when no one else was there. I think it would

1 have been an open meeting. I don't know if all of
2 the different things you need to do under the Freedom
3 of Information Act were complied with or not. I just
4 have no idea.

5 Q Do you recall any meetings where members of
6 the screening committee met where other people
7 weren't there, it was just limited to people on the
8 financial screening committee?

9 A I can recall that they prohibited anyone, I
10 believe, that sent in a proposal from attending the
11 meetings.

12 Q Are you aware of any meetings that occurred
13 with members of the financial screening committee
14 that just included members of the financial screening
15 committee where they discussed the different
16 proposals?

17 A What I remember about it is each
18 commissioner apparently got a copy of every proposal,
19 however many came in, and that's when they selected
20 Commissioner Mitchum to do the study and analyze it
21 and come back to them. Commissioner Mitchum would
22 have been, in all probability, the one that made any

1 recommendations.

2 Q The best of your recollection now is that
3 was a meeting just with members of the committee?

4 A I don't recall that, but I can recall at
5 one time they didn't want the people there that had
6 applied for or submitted a proposal.

7 Q This may or may not help you --

8 A I don't know if that meeting took place or
9 not, but I think it did.

10 Q I show you a document Bates stamped DKS
11 027874. It is minutes of meeting of the financial
12 screening committee for the communications system
13 dated April 24, 1985. It states that there was an
14 April 8 letter mailed to all financial institutions
15 expressing an interest in financing the proposed
16 communications system.

17 It said the financing proposals were
18 received until 9:00 a.m. and it says eight proposals
19 were received, the first one being Lasater & Company,
20 T.J. Raney and E.F. Hutton and it said the company
21 made a joint proposal. Then it lists a number of
22 other firms, and then toward the bottom of the

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1 minutes, the second to the last paragraph reads that
2 Mr. Erxleben suggested -- let me go ahead of that.

3 The sentence reads "The committee will meet
4 again on May 3 at 9:00. Mr. Erxleben suggested this
5 meeting would be a closed meeting as it would be a
6 working committee meeting."

7 Do you recall if that ever happened, where
8 you had a closed working meeting?

9 A Again, I'm not sure of that, but I'm sure
10 it did.

11 Q "He will check with the Attorney General's
12 office to confirm that this can be done legally." Do
13 you know if that was ever done?

14 A No, I don't know.

15 Q You don't have any independent recollection
16 whether there was a closed meeting of the committee?

17 A No, I can't remember. I think there was,
18 but I can't remember.

19 Q The minutes I just showed you were from
20 April 24th. Is that the first time that members of
21 the committee received copies of the proposals?

22 A I don't know. It would be normal -- David

1 Mosley, or even myself, but David Mosley would be the
2 one who ultimately collected the proposals there at
3 the State Police headquarters.

4 Q Between April 24th and May 1st, did you
5 have any discussions with members of the committee or
6 the commission with regard to which proposals they
7 were in favor of?

8 A I don't recall meeting with any of them. I
9 think I told you a little earlier that if I had
10 favored one against the other, it probably would not
11 have been in an open meeting. But I can't recall
12 that happening, and I'm going to say that it didn't
13 happen.

14 Q Did you ever have any conversations with
15 Mr. Simpson --

16 A Simpson is basically who I was talking
17 about. If I had said anything outside of the
18 meeting, it would have been in conversation to him.

19 Q Did he ever relate to you who other
20 committee or commission members were leaning toward?

21 A At some point in time they did. I think it
22 was apparent when Commissioner Mitchum was asked to

1 study it and came back and made his presentation. I
2 think that at least a majority of them went with
3 him. I can't recall how the two commissioners that
4 were against E.F. Hutton went, whether they ever
5 changed their minds or not.

6 Q Do you recall whether there came a time
7 when the eight firms who made the initial proposals
8 were cut down to a number of finalists that the
9 commission was considering to give the underwriting
10 to?

11 A If I remember right, they cut it down to X
12 number by just reviewing the file.

13 Q Did that happen during a meeting?

14 A I'm sure it did.

15 Q Do you know how the firms were culled out?

16 A I suppose like you would any other bid
17 item; you look at their proposal, and John Doe can't
18 do it, can't handle it, that kind of thing, kind of
19 like GE wanted the equipment process but they
20 couldn't do a statewide system so we didn't consider
21 them.

22 Q With regard to choosing the underwriters,

1 the financial firms to do the underwriting, am I
2 right that Mr. Mitchum wasn't asked to do comparison
3 proposals until they were cut down to a lesser number
4 than the eight?

5 A That's my understanding, that they were to
6 look at them and go in and take X number off the top
7 and then consider the remainder of them. I think
8 there was one or two, if I remember right, that
9 didn't even show up at the meeting to present the
10 proposal.

11 Q Of the eight firms, or the lesser firms?

12 A Of the eight or nine firms, however many
13 there was.

14 Q Do you recall the first time that
15 Commissioner Simpson told you that he favored one
16 firm over the other?

17 A No.

18 Q Did he tell you before the commission made
19 its selection, final selection?

20 A Not that I can recall. He may have. I
21 wouldn't think that he would appoint someone to look
22 at it and make a recommendation before Mitchum

1 brought that back and offered it to everybody.

2 Q Rather than a formal recommendation, did he
3 express to you --

4 A I don't recall if he did.

5 MR. O'CALLAGHAN: Let's go off the record.
6 (Discussion off the record.)

7 BY MR. O'CALLAGHAN:

8 Q Do you recall having any conversations with
9 anyone at the governor's office about the status of
10 which commissioners were behind which underwriting
11 firm? This is before they were accepted.

12 A I don't recall it.

13 Q Do you recall speaking to Michael Gaines at
14 any time about it, giving him an update?

15 A No, but if I knew one had, Mike might have
16 been one of the people that I would talk to about
17 it.

18 Q Let me just show you a document, one-page
19 document on the Office of the Governor Memorandum
20 stationery. It is to Governor Clinton, Betsey
21 Wright, date 5/1/85, May 1/85, from Mike Gaines. The
22 subject is "ASP Communications K" which I think means

1 contract.

2 A K means --

3 Q I think that is a symbol for contract.

4 That's what they taught me in law school, anyway.

5 I will direct your attention to the
6 handwritten portion, which is the main text, which
7 begins "State Police Commission." My first question
8 will be based on what appears there.

9 (Witness examined the document.)

10 A I don't recall this at all, but I
11 apparently did, and I can almost support what I said
12 there.

13 Q This is dated May 1st.

14 A Yes.

15 Q It says "The State Police Commission
16 meeting Friday to review proposals for financing of
17 the communications system. The following are Tommy
18 Goodwin's observation of where things stand. Billy
19 Simpson appears to have switched his support from
20 another vendor to Lasater. Johnny Mitchum solidly
21 behind Lasater. Mashburn probably Lasater since
22 McElroy Bank did not submit a proposal. Gene Raff

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1 probably Lasater. Rockefeller"?

2 Since May 1st is a couple days before the
3 May 3rd meeting of the financial screening committee
4 where the number of firms was cut down from eight to
5 four, do you recall having an idea that this many
6 commissioners were behind the Lasater proposal before
7 the groups were cut down to four underwriters?

8 A No, but I presume I was allowed to attend
9 all the meetings that they had. That would have been
10 my assessment.

11 Q Would this have been information you
12 gathered from a meeting, or would it have been from a
13 personal conversation with the members of the
14 commission?

15 A I am positive that I never went around and
16 polled each one individually and asked.

17 Q Do you recall --

18 A I'm not even sure if I agree with myself
19 here on one or two of these.

20 Q As of May 1st, '85?

21 A Yes.

22 Q There is a note on the bottom here I would

1 like to ask you about. It says "We have a real
2 problem here since street talk is that Lasater put in
3 unreasonably low bid knowing he can raise it once he
4 gets it. Hope ASP had expert review everything.
5 Also does this jibe with" and it is kind of hard to
6 read what follows after that.

7 Do you recall hearing that Lasater &
8 Company put in a bid that was unreasonably low,
9 knowing that they could raise it later?

10 A I know that the interest rate would
11 fluctuate.

12 Q Did you ever hear reports of this nature?

13 A I never heard anything like this, no, and
14 it didn't happen.

15 Q Did you ever have any conversations with
16 the governor with regard to the Lasater bid, other
17 than the conversation you described earlier?

18 A I think we are talking about the same thing
19 here.

20 Q Sorry; what is that?

21 A If you are talking about Lasater, "we have
22 a real problem in that talk is that Lasater" --

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1 excuse me. We are not talking about the same thing.

2 Q No.

3 A I never even heard of this. I'm going to
4 say Mike Gaines and I had a conversation and he
5 repeated that conversation to the governor. It
6 probably was my opinion at the time.

7 Q Do you recall what cost of borrowing was
8 actually implemented in connection with the Lasater
9 underwriting, what the percentage was, what the rate
10 was?

11 A No.

12 Q Do you remember if it was the same as what
13 was included in the proposal?

14 A No. I don't think I ever really got
15 involved in it. I think that we probably utilized
16 David Mosley, Ed Erxleben and Commissioner Mitchum.
17 I don't think there was even members of the
18 commission that could probably say that Mitchum is
19 not right on this.

20 They were just like me; they didn't know
21 enough about the issue or the issues to actually be
22 involved in it. That was one of the reasons I think

1 for bringing everybody else over.

2 Q A lot of the other commissioners relied on
3 Mr. Mitchum's analysis and comparison?

4 A Yes.

5 MR. FEUER: I don't think that Mr. Goodwin
6 had finished his answer. You were saying that was
7 one of the reasons they brought everybody over?

8 THE WITNESS: Dudley, Erxleben and David
9 Mosley were probably three people that knew more than
10 anyone in the entire group, with the exception of
11 maybe Commissioner Mitchum.

12 BY MR. O'CALLAGHAN:

13 Q Did they help Mr. Mitchum in the
14 preparation of his analysis, if you know?

15 A I don't think so. If I remember right, he
16 lived in Batesville. He took the figures to
17 Batesville with him, and when he brought them back,
18 they were in the finished form as far as he was
19 concerned.

20 Q So, Mr. Mitchum and Mr. Mosley and
21 Mr. Erxleben would be the people who would have
22 followed the actual execution of the contract?

1 A Those are the people I would have listened
2 to.

3 Q Who would have been the person in charge of
4 making sure the contract was executed and followed?
5 Was that state purchasing or was that the commission?

6 A It would have been the commission's
7 responsibility to see that it was filed. I think the
8 Act put them responsible for just about everything.

9 Q Do you recall who at the commission had
10 oversight on that?

11 A Probably the entire seven. I don't know
12 how I can answer you better than that. I think
13 collectively they would have had to make a decision
14 on it.

15 Q Document Bates stamped 027168, I would like
16 to show you, and it goes through 027184. I will ask
17 you some general questions about it. Take a moment
18 to review it and let me know when you are finished.

19 I'm not going to ask you about specific
20 figures. I am just going to ask you some very
21 general questions about it.

22 (Witness examined the document.)

- 1 A All right. I know what it is.
- 2 Q Have you seen this document before?
- 3 A Not that I know of, but I have seen one --
- 4 if I haven't seen this, I have seen one that is
- 5 similar to it.
- 6 Q In what context did you see that other
- 7 document? What was it?
- 8 A I saw one setting here just a few minutes
- 9 ago. Actually, if I am right, just a payout from
- 0 beginning to end, isn't it?
- 1 Q Is this the analysis that Mr. Mitchum
- 2 handed out, do you recall?
- 3 A Oh, I don't know. I would presume that
- 4 these are the figures he came up with.
- 5 Q But you don't know?
- 6 A I don't know, no, sir.
- 7 Q Do you know if Mr. Mitchum hired anyone to
- 8 do an analysis to back up his analysis?
- 9 A If he ever did, I never heard of it. I
- 0 don't recall.
- 1 Q Do you recall whether, just to help your
- 2 memory, whether he hired anyone by the name of John

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- 1 Myers who is an actuary to review the figures of the
- 2 different proposals?
- 3 A I don't think I know a John Myers or don't
- 4 know of him. He may have, but I don't recall if he
- 5 did.
- 6 Q Do you recall attending the meeting at the
- 7 State Police Commission where the contract was
- 8 awarded to one of the underwriting firms that was
- 9 competing for the police radio underwriting, where
- 10 the commission voted to give the contract to an
- 11 underwriter?
- 12 A Only if it was Hutton, Lasater and Raney, I
- 13 guess I was aware of that.
- 14 Q You were at the meeting where the --
- 15 A I'm sure I was, yes.
- 16 Q And do you recall whether any of the other
- 17 firms that were involved in the competition requested
- 18 that they be given a chance to revise their proposals
- 19 because there was a misunderstanding of the
- 20 legislation that authorized the underwriting?
- 21 A No, I don't recall that.
- 22 Q I will show you quickly minutes of the

1 Arkansas State Police Commission meeting, May 10,
2 1985. Take a look at that.

3 (Witness examined the document.)

4 I would like to direct your attention to
5 the second page.

6 A During the presentation?

7 Q Yes, sir, where it says "Commissioner
8 Simpson announced the order of presentation for the
9 oral proposals and stated the order had been
10 determined by drawing."

11 Were you there for the different proposals,
12 the oral presentations?

13 A I believe I was. I believe I was there for
14 all of them, but I don't recall.

15 Q Do you recall the summary that Mr. Mitchum
16 did of the four proposals?

17 A No.

18 Q Further down the page --

19 A The only one I can recall, and apparently
20 he did, but the only one I can recall was Hutton,
21 Lasater and Raney, which maybe I remember because
22 they are the firm that got it, and that Mitchum made

1 the same presentation before the joint budget, or a
2 similar presentation.

3 Q He made the recommendation that Lasater,
4 Hutton and Raney had the best proposal?

5 A Yes.

6 Q Further down the page, after Commissioner
7 Johnny Mitchum prepared a brief summary "some of the
8 firms at this time requested permission to revise
9 their proposals because they felt there had been some
10 misunderstanding of the Act. However, the commission
11 opposed any further delay."

12 Does that refresh your recollection as to
13 whether that happened?

14 A Not really. I don't doubt that it
15 happened, but I don't remember it.

16 Q In between the time that the proposals were
17 received and a contract was given to the Lasater
18 group, did you have any discussions with Betsey
19 Wright in the governor's office?

20 A Did I have any?

21 Q Communications, discussions.

22 A No, I don't recall having any with the

1 exception of those two or three, whichever many it
2 was. You know, it is very possible that I did have
3 them, because the communications system was a big
4 thing for the Arkansas State Police. I'm sure that I
5 had private conversations with a lot of people, that
6 doesn't really mean anything, just the fact that we
7 talked about it and we are going to be able to do
8 this, that we had never been able to do before.

9 Q Did you have any conversations with Senator
0 Nelson during this time period?

1 A I'm not sure what position he was in, and I
2 don't recall -- he is another one I don't recall
3 having conversations outside of a meeting, but I do
4 recall him chairing a meeting with other legislators
5 that I attended.

6 Q You recall he was the chair of the
7 communications committee?

8 A It was a bigger meeting than that.

9 Q Of the legislative council, perhaps?

10 A Either legislative council or joint budget
11 committee. I read one document there a few minutes
12 ago that showed Representative Miller and joint

1 budget. I believe Senator Nelson was in the Senate,
2 yes.

3 Q Do you recall whether he or anyone else
4 ever expressed the view that the project shouldn't be
5 financed by a bond underwriting, that another means
6 of financing should be used?

7 A No, I don't recall that. The conversation
8 I remember with him had to do with the legislation
9 itself. It was prior to the time that Governor
10 Clinton signed it.

11 Q Do you recall whether there was a
12 discussion with regard to the means of financing?

13 A No. Well, it could have, but what sticks
14 out in my mind is I can recall that he did not want
15 legislation that somebody could look at and find
16 restrictions where we could not do what they intended
17 for us to do.

18 That's why I think the legislative council
19 staff or joint budget staff had something to do with
20 helping him in writing some of that legislation.

21 Q You stated earlier that some of the members
22 of the commission expressed some concern about E.F.

1 Hutton.

2 A Two members of the commission.

3 Q What were the concerns they expressed?

4 A The two commissioners were Gene Raff and
5 Dr. Mashburn. I can't remember his first name. He
6 is from Fayetteville.

7 Their concern was in some state other than
8 Arkansas, some of the members of the E.F. Hutton
9 organization had committed fraud or some crime, and I
10 think were indicted. And it happened apparently a
11 short time before -- either a short time before or
12 during this. I think it was a short time before we
13 started working on the project.

14 Q Did these two members end up voting against
15 the Lasater/Hutton/Raney group?

16 A I don't know. I don't remember.

17 Q You remember it was Raff and Mashburn?

18 A Yes.

19 Q These concerns were raised during public
20 meetings; is that right?

21 A In a commission meeting. Yes, it was a
22 public meeting.

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1 Q Did you attend the meeting of the Arkansas
2 legislative council on May 17th when a vote was taken
3 on whether or not to give favorable advice and
4 counsel to the State Police Commission's choice of
5 the Raney/Hutton/Lasater group?

6 A I don't believe that was the legislative
7 council.

8 Q Were you at a meeting where there was a
9 vote taken on that by members of the legislature?

10 A The advice and review committee.

11 Q What was the meeting you attended?

12 A It would be customary that I attended,
13 though I don't recall attending it. But there is a
14 committee or a subcommittee that they call advice and
15 review that has no authority other than to give you
16 advice that you can take or not take.

17 Q Did you attend a subsequent meeting of the
18 legislative council where that meeting was discussed?

19 A I don't know. I probably did. I don't
20 recall.

21 Q I show you a document dated May 17, 1985.
22 It is minutes of the meeting of the Arkansas

1 legislative council. I will direct your attention to
2 the portion that begins on the third page which is
3 "communication study committee, state police
4 communication network." The Bates stamps on this are
5 DKSJN 027211 through 27222.

6 The portion I will direct you to begins on
7 the third page where it says, the fourth paragraph
8 down, "Chairman Benham recognized Tom Goodwin,
9 director of the State Police Commission. He asked
10 that the council allow Mr. Johnny Mitchum, Chairman
11 of the State Police Commission, to make the
12 presentation."

13 Do you recall attending this meeting?

14 A No, but I won't argue that I did. I'm sure
15 I did.

16 Q Do you recall during a meeting that you
17 attended, which may have been in front of the
18 Arkansas legislative council, where one of the
19 competitors for the underwriting firm made statements
20 complaining that Raney/Hutton/Lasater had not
21 complied with the terms of the enabling legislation?

22 A No.

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1 Q Do you recall the name Neil Hertenstein?
2 Does that ring a bell?

3 A It doesn't ring a bell with me.

4 Q The bottom of page 3, the portion that says
5 "Chairman Benham then recognized Mr. Neil
6 Hertenstein of Clayton Brown Company in Chicago who
7 stated his company was underwriting a proposal
8 presented by First Capital, Little Rock. The joint
9 underwriting is with the firm in St. Louis. He
10 stated his statements were in regard to the analysis
11 which had been prepared by Mr. Myers and which was
12 already complete. The analysis and results were done
13 carefully but there are some major differences in the
14 proposals. Mr. Hertenstein stated his proposal was
15 proposing the state make payments on a monthly basis
16 which was instituted in the legislation passed at the
17 last session of the Arkansas general assembly."

18 Do you recall those statements being made?

19 A No, I don't.

20 Q The first time the contract was presented
21 to the Arkansas legislature for advice -- was it
22 advice and counsel, advice and consent?

1 A Yes.

2 Q How was that received by the legislature?

3 A I read there a few minutes ago where

4 Senator Benham came back and the committee sanctioned
5 the proposal.

6 Q Do you have an independent recollection
7 outside of the document I just showed you --

8 A No, I don't.

9 Q -- whether or not it was initially
10 approved?

11 A Apparently it was, but I don't recall it.

12 Q This may refresh your recollection. Take a
13 look at page 27216.

14 A The page is cut off on mine.

15 Q In the middle of the page "the following
16 roll call."

17 A Okay.

18 Q "The final roll call vote was then taken on
19 the main motion by Senator Hoffman to give favorable
20 advice to the State Police Commission recommendation
21 on the financing proposal submitted for the
22 acquisition of the new communications network. The

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1 motion failed adoption, 14 for and 12 against, with
2 16 votes being necessary for passage."

3 Does that --

4 A I'm sure it happened. It doesn't ring a
5 bell with me. I thought I read here a few minutes
6 ago where Senator Benham came back and the committee
7 gave a favorable review.

8 Q I can tell you that that didn't happen.
9 The vote was taken, it appears on the page I just
10 pointed out to you, but you don't have any memory?

11 A No, I don't have a memory, I sure don't.

12 Q Do you recall whether there was a gap of
13 time between the time that the commission voted to
14 give the Lasater group the underwriting contract and
15 when the state legislature gave favorable advice to
16 the Lasater contract?

17 A No. I don't doubt that it happened. As I
18 said a few minutes ago, I thought they gave favorable
19 review from the beginning. But it really doesn't
20 make any difference; they don't have any authority
21 anyway.

22 Q During this period 1982 through 1986, did

1 you know Dan Lasater?

2 A No.

3 Q Did you know what the nature of his
4 relationship was with the governor during that time?

5 A Not other than probably what I have read in
6 newspapers and probably -- I'm not sure about this,
7 maybe a case file, but I'm not sure about that.

8 Q I want you to think about this too. You
9 told me earlier that the governor had come to you and
10 asked you, he had a discussion about Mr. Lasater.
11 Did he relate to you that Mr. Lasater was a supporter
12 of his at the time?

13 A If he didn't, I had that knowledge. I
14 don't recall that he told me.

15 Q How did you have that knowledge? How did
16 you know he was a supporter of the governor?

17 A Well, I may not have. I may not have had
18 it at that particular time. If I didn't, a short
19 time later it became public knowledge in Arkansas, I
20 think, that Lasater had contributed to his campaign
21 funds. This is not firsthand knowledge.

22 Shall I continue?

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1 MR. FEUER: Only if you have something more
2 to say that is responsive to Mr. O'Callaghan's
3 question.

4 THE WITNESS: It has nothing to do with the
5 radio communications system.

6 BY MR. O'CALLAGHAN:

7 Q The relationship and what you knew about
8 it.

9 A The fact that he had loaned Roger Clinton
10 some money at one time.

11 Q When did you become aware of that?

12 A Probably just before we arrested Roger
13 Clinton.

14 Q When was that? Do you remember?

15 A 10 years ago.

16 Q Was it before the contract was awarded for
17 the police radio system?

18 A I think it was after. I'm not sure.
19 Either --

20 Q How did you find out that Mr. Lasater had
21 loaned Roger Clinton money?

22 A It is in the case report, and Mr. Lasater

1 said he did.

2 Q Did you have any discussions with the
3 governor about the loan?

4 A No.

5 Q Do you know when the governor found out
6 that Mr. Lasater loaned Roger Clinton money?

7 A No. I would guess it was after Roger was
8 arrested, but I don't know.

9 Q Did the governor ever tell you that he was
10 friends with Mr. Lasater, or a social acquaintance?

11 A I don't recall ever discussing their
12 friendship. I won't say it didn't take place, but it
13 was never discussed.

14 Q Do you know whether the governor ever met
15 with Mr. Lasater during this time period?

16 A I have no idea. I have no knowledge of
17 it.

18 Q Have you ever heard that he discussed the
19 bond underwriting contracts for the police radio
20 system with Mr. Lasater?

21 A No.

22 Q Did anyone else from the state police

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1 inform the governor that Mr. Lasater had loaned Roger
2 Clinton money?

3 MR. FEUER: What time frame, Michael?

4 THE WITNESS: I honestly don't know the
5 time frame on it. It is fairly close in there one
6 way or the other. It is either before we arrested
7 Lasater or just after we arrested him.

8 BY MR. O'CALLAGHAN:

9 Q Arrested Mr. Lasater or Mr. Clinton?

10 A Lasater, Lasater. It had to be before.

11 Q Before his arrest?

12 A Yes.

13 Q You said it was in Roger Clinton's case
14 file; right?

15 A Sure, it has been in newspapers
16 everywhere.

17 Q Did the governor have access to that case
18 file?

19 A Everybody had access to it.

20 MR. FEUER: Now, hang on. Again, Michael,
21 we have agreed previously that these questions are
22 relevant only as to actions that occurred before or

1 up to the time of the awarding of the bond
2 underwriting contract to Raney, Hutton and Lasater.
3 The conduct of the Arkansas State Police after that
4 date with respect to Roger Clinton or any other case
5 that they may have worked on is not within the scope
6 of this investigation.

7 I think that you can get at this
8 information by trying to phrase your questions around
9 a time period; namely, up to the awarding of the bond
10 contract. Beyond that time period the questions are
11 outside the scope of our investigation.

12 MR. O'CALLAGHAN: I wasn't attempting to
13 elicit information outside that time period.
14 Mr. Goodwin indicated he had a hard time placing it
15 in time when the case file had been put together,
16 when the arrest occurred of Roger Clinton. I was
17 trying to determine when the information was first
18 received by the state police and when the file was
19 put together.

20 MR. FEUER: The arrest of Roger Clinton, I
21 expect, is a matter of public record and could easily
22 be ascertained. Asking Mr. Goodwin open-ended

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1 questions without any time period on them is not the
2 best way, or I would say, an appropriate way of
3 getting that information and leads us into testimony
4 or is very likely to lead us into testimony that is
5 outside the scope of the Senate Resolution.

6 MR. O'CALLAGHAN: What I was trying to get
7 at was when the Roger Clinton case file was put
8 together, whether that was before or after the
9 awarding of the contract and when that information
10 was in there and when it was available.

11 THE WITNESS: I think I said a minute ago
12 that I don't know. It was pretty close one way or
13 the other.

14 BY MR. O'CALLAGHAN:

15 Q Do you know how far in advance of Roger
16 Clinton's arrest that information was included in the
17 case file with regard to the loan?

18 A No.

19 MR. O'CALLAGHAN: Off the record for a
20 second.

21 (Recess.)

22 BY MR. O'CALLAGHAN:

1 Q Colonel Goodwin, I can represent to you
2 that in August 1984, Roger Clinton was arrested for
3 distributing cocaine. The first question is, was the
4 information about the loan to Mr. Clinton in the file
5 before he was arrested?

6 A The way I remembered, it was in the file,
7 probably in a statement form by the investigator.

8 Q And did the governor have access to that
9 file?

10 A I don't think the governor ever -- I don't
11 believe he ever looked at the file. I think the word
12 got to me is he really didn't want to see it.

13 Q Did you ever see it?

14 A Oh, I have seen it, or at least portions of
15 it, numerous times. We had Freedom of Information
16 Act requests for the file and the tapes and
17 everything else. I can't tell you how many times but
18 numerous times.

19 Q Did you see it at the time he was arrested
20 or in or around that time?

21 A Probably not the file. I saw -- I looked
22 at tapes and listened to tape-recordings that

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1 investigators made. I don't think I ever really
2 looked at the file until it became real popular three
3 years later.

4 Q Had you learned the information that
5 Mr. Lasater had given Mr. Clinton a loan in or around
6 the time of the arrest or the indictment or the
7 conviction?

8 A No, not a specific time period I didn't.
9 The only thing I can recall was that he made a loan.
10 Datewise, I don't know.

11 Q Do you recall whether it was near the time
12 of the arrest?

13 A I think it was before the arrest. In fact,
14 I'm almost positive it was, but I don't know when.

15 Q Do you know whether any of the members of
16 the commission had access to that information?

17 A As far as I know, they did not. They could
18 have, just like anyone else could have by requesting
19 it. But I don't recall them ever making the
20 inquiry. If the commission got anything, it was
21 probably just some general conversation with me or
22 someone there at headquarters.

1 Q Do you know whether Governor Clinton ever
2 flew on a Lasater-owned aircraft?

3 A Not other than what I have read.

4 Q In the papers?

5 A Yes.

6 Q Do you know whether Roger Clinton ever
7 informed his brother that he had taken a loan from
8 Mr. Lasater?

9 A No, I don't know.

10 Q Do you know if Mr. Lasater provided Roger
11 Clinton with any assistance with his criminal trial?

12 A No, not that I know of.

13 Q Are you aware of any contributions that
14 Mr. Lasater made to Governor Clinton's either
15 campaigns or inaugurals?

16 A Nothing other than what I have read in the
17 paper, no.

18 Q Are you aware of any payments of cash made
19 by Mr. Lasater or anyone associated with him to
20 anyone in the governor's office in connection with
21 getting state bond business?

22 A No.

1 Q Have you ever heard any stories to that
2 effect?

3 A Never have.

4 Q Are you aware of whether any state troopers
5 received any packages with cash in them from anyone
6 at Lasater & Company to bring over to the governor's
7 mansion?

8 A No, I am not aware of that.

9 Q Have you ever heard that?

10 A No.

11 Q Again, during the period 1982 through 1986,
12 was the state police ever informed that there was any
13 money laundering activity connected with the Arkansas
14 Development Finance Authority?

15 A No.

16 Q Are you aware of whether anyone from the
17 governor's office had any conversations with anyone
18 on the State Police Commission regarding which
19 underwriting firm should be chosen to do the
20 financing for the radio system?

21 A With the state police commission?

22 Q Yes, sir.

1 A No.

2 Q How about with regard to anyone in the
3 legislature?

4 A Not to my knowledge.

5 Q Has anyone ever reported to you about any
6 political pressure that was brought to bear with
7 regard to the process for choosing the underwriters
8 for the police radio system?

9 A No.

10 Q Was anyone on the police radio commission
11 offered any money or any kind of remuneration in
12 exchange for voting for -- for favoring one
13 underwriter over the other?

14 A Not that I know of.

15 Q I just have a few more questions and then I
16 will be wrapping up here.

17 Prior to the bonds that were issued for the
18 state police radio system, had the state police ever
19 issued bonds before to finance any equipment
20 purchases?

21 A Not while I was director. I don't recall
22 any earlier.

1 Q Do you know if they have done any since?

2 A I don't know of any that have been done
3 since.

4 Q Were there any discussions about having the
5 Arkansas Development Finance Authority issue these
6 bonds when you were considering this?

7 A I read something. I do not recall when we
8 determined that driver's license revenue -- I don't
9 recall any inquiry from that agency. Maybe it is
10 because I wasn't interested that I don't remember it,
11 but I don't remember any.

12 MR. O'CALLAGHAN: I have no further
13 questions at this time.

14 MR. FEUER: Off the record for a minute.
15 (Discussion off the record.)

16 EXAMINATION

17 BY MR. FEUER:

18 Q Mr. Goodwin, let me introduce myself
19 again. My name is Mitchell Feuer. I am a lawyer on
20 the Democratic staff of the Senate Banking
21 Committee. For purposes of this deposition, I will
22 be asking you questions on behalf of the Democratic

1 Senators who are members of the Senate Special
2 Committee on Whitewater and related matters.

3 Because of the nature of the proceeding
4 where the Republican counsel goes first and the
5 Democratic counsel goes second, there is going to be
6 some repetition, and I apologize for that, but that's
7 the way we have agreed that these depositions will
8 take place.

9 I will ask you questions about the same
10 areas that Mr. O'Callaghan has already covered with
11 you. If you don't hear my question, please ask me to
12 repeat it and I will do so. If you don't understand
13 my question, please let me know and I will try to
14 rephrase it or explain it so that we are both clear
15 about what we are talking about. If at any point for
16 any reason you want to take a break, just let me know
17 and we will go off the record for that purpose.

18 Mr. O'Callaghan has previously shown you
19 minutes of a meeting of the Arkansas State Police
20 Commission dated April 4, 1985. Those minutes -- let
21 me give you a copy of this document. It is number
22 DKS N 027582 through 586. This is another copy of the

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1 document that you have already seen.

2 Turning to page 585, the document states
3 "Chairman Simpson appointed the following committee
4 to review and evaluate proposals and to make
5 preparations for the firms they select to make a
6 formal presentation to the commission." Beneath that
7 are listed the names Colonel T.L. Goodwin, Mr. David
8 Mosley, Mr. Ed Erxleben, Mr. Dudley Meadows,
9 Commissioner Johnny Mitchum and Commissioner Bill
10 Simpson.

11 As Mr. O'Callaghan pointed out previously,
12 the next page states that "Commissioner Simpson
13 announced that a change had been made in the
14 committee. Major Tyler was added to the Committee.
15 Also, instead of only two members of the commission
16 serving on the committee, the entire commission will
17 serve."

18 Did you serve on a committee that helped
19 review and evaluate the proposals received from
20 different underwriters with respect to the financing
21 of the new radio system?

22 A I do not recall serving on that commission

1 when the people were selected. I don't remember
2 being a voting member, I guess is what I'm saying.

3 Q When they were selected at the end of the
4 process?

5 A Yes. I probably did sit in on this
6 committee in the interim.

7 Q In your participation in helping to review
8 and evaluate proposals and identify which
9 underwriting proposal would be the best one, did you
10 act fairly?

11 A I think I did. I acted on what I believed,
12 and what I believed was what had been told to me
13 about the proposal that was submitted by Hutton,
14 Lasater and Raney.

15 Q Was that told to you by Commissioner
16 Mitchum?

17 A Commissioner Mitchum, I listened to his
18 presentation. Probably other members of the
19 commission.

20 Q Did Mr. Mosley or Mr. Erxleben or
21 Mr. Meadows make any recommendations?

22 A I can't recall that. I'm sure that they

1 did. That's why they were there. But I don't recall
2 what recommendations, if any, they made to the
3 commission.

4 Q But they were there and they did
5 participate in the process of reviewing the different
6 proposals and identifying what the strengths or
7 weaknesses of each proposal would be and which was
8 the best?

9 A Yes.

10 Q Do you have any reason to believe that, in
11 participating in that process, that either Mr. Mosley
12 or Mr. Erxleben or Mr. Meadows were not open-minded?

13 A I know all three men. They are all good
14 men. I would believe any of the three probably over
15 a lot of people.

16 I think that -- I don't know Dudley Meadows
17 as well as I do the other two, but if David Mosley or
18 Ed Erxleben -- this is going to sound like I don't
19 have a mind of my own, but if they told me this was a
20 good system, I would believe that this was a good
21 product, a good funding situation.

22 Q Do you have any reason to believe that

1 Mr. Mosley or Mr. Erxleben were favoring one firm
2 over another?

3 A No.

4 Q How about Commissioner Mitchum, do you have
5 any reason to believe that he was favoring one firm
6 over another?

7 A I don't have any reason to believe that.
8 You always wonder about why does one take on all
9 this, I guess, responsibility of doing this and
10 that. I don't have a good reason to believe anything
11 like that.

12 Q Was Mr. Mitchum a CPA?

13 A Yes.

14 Q Was he more knowledgeable about financial
15 matters than the other members of the police
16 commission at that time?

17 A He wasn't just a CPA. I think he owned
18 three or four firms in Arkansas and they later used
19 his method for teaching at the University of
20 Arkansas. There is no doubt in my mind he is a
21 capable CPA.

22 Q How about Commissioner Simpson and the

1 other commissioners, do you have any reason to
2 believe that they were not fair in reviewing the
3 proposals, that they gave favorable treatment to one
4 firm over another firm?

5 A I don't have any reason to doubt that they
6 did not.

7 Q I'm going to ask you some questions about
8 the meeting that you had with Governor Clinton where
9 the issue of Dan Lasater's possible cocaine use came
10 up. Who raised that issue during that meeting?

11 A I believe Governor Clinton did.

12 Q Did you think that Governor Clinton
13 believed that Mr. Lasater's firm should not get the
14 bond contract if Mr. Lasater was being investigated
15 for possible cocaine use?

16 A I think the governor was worried that if
17 that firm got the contract and Lasater should have
18 been arrested during the middle of it, it would have
19 been embarrassing for the state of Arkansas.

20 Q Did Governor Clinton ask you to find out
21 whether any criminal investigations of Mr. Lasater
22 were underway?

1 A I'm not sure that he said find out about it
2 or I took it on my own to check that part out.

3 Q What did you do after that meeting?

4 A Directly after the meeting?

5 Q Let me rephrase that. What did you do --
6 did you do anything as a result of that meeting?

7 A Yes, and it probably was directly or not
8 too long afterwards that I made an inquiry through
9 one of our supervisors in the investigation
10 division. I think I mentioned that it was Doug
11 Stevens, with the knowledge of his supervisor.

12 Q And that was Major Johnson?

13 A That's correct.

14 MR. O'CALLAGHAN: Off the record.

15 (Discussion off the record.)

16 BY MR. FEUER:

17 Q Did Major Johnson or Captain Stevens tell
18 you that the Arkansas State Police itself had an
19 investigation of Mr. Lasater underway at that time?

20 A That we didn't have at that time.

21 Q What did Captain Stevens or Major Johnson
22 tell you was the result of their inquiries?

1 A That there were no investigations, no
2 ongoing investigations occurring at that time.

3 Q Did you attend a meeting of the Arkansas
4 State Police Commission where representatives of four
5 different underwriting firms came and made oral
6 presentations to the commission?

7 A Yes.

8 Q Did you feel that any one of those four
9 firms could have won the contract based on the
10 strengths or weaknesses of their particular proposal?

11 A No. I don't think I based mine on the
12 strength of the proposals as much as I did the
13 strength of people explaining to me the proposals.
14 Again, I will say that I didn't have a vote in the
15 selection of the person or the firm anyway. I was
16 convinced by individuals more so than through the
17 presentations.

18 Q Why did some individuals reach the
19 conclusion that the Raney/Hutton/Lasater group had
20 submitted the best proposal?

21 A I can recall that it was different on the
22 scale that they used that other firms disagreed with

1 and ended up being proved, like the proposal said it
2 would. I think I mentioned earlier I was told that
3 they were lucky, but I don't know that.

4 Did I answer your question?

5 Q Did you have an understanding, based either
6 on your own review of the proposals or what other
7 people told you about the different proposals, that
8 the Raney/Hutton/Lasater proposal would allow the
9 state of Arkansas to finance the new radio system
10 more cheaply or at a lower cost than the other
11 proposals would?

12 A That was my understanding, yes.

13 Q Do you recall why that was the case?

14 A You know, I think there was projecting
15 going on. I guess it all boiled down to the tax
16 base -- not the tax base, but the fluctuation in
17 taxes and what was going to happen. And whether they
18 had the best proposal or not, I was convinced that
19 they did have, and it apparently turned out the way
20 their proposal read.

21 Q Did you think it was common knowledge, at
22 least after the date of The Arkansas Democrat

1 newspaper article that Mr. O'Callaghan showed you
2 earlier, that the State Police Commission was
3 considering different possible methods of financing a
4 new radio system?

5 A I think there were different methods
6 discussed. I think they seriously stayed with the
7 driver's license revenue all the way through.
8 Because it was there, it was a good solid source of
9 income; there was very little reason to go anywhere
10 else.

11 Q Was it common knowledge, at least after the
12 date of that newspaper article, that the Arkansas
13 State Police Commission might be hiring an
14 underwriting firm or a group of underwriting firms to
15 underwrite a bond offering?

16 A I don't recall that.

17 Q Did underwriting firms send in proposals to
18 the Arkansas State Police Commission before the date
19 on which the police commission formally requested
20 firms to send in proposals?

21 A If they did, I surely don't recall it. I
22 don't recall anything that was asked except for a

1 proposal. If there was a proposal such as the one
2 you described, it is totally out of my mind.

3 Q I am going to hand you a document that has
4 been marked DKS 017803 to 811. I'm not going to
5 quiz you about all the details of it, but why don't
6 you let me know when you have had a chance to look at
7 it.

8 (Witness examined the document.)

9 The first page of this document, page
10 17803, says "proposal to Arkansas State Police for
11 communications system lease, Stephens, Inc.
12 Investment Bankers, March 7, 1985." Pages 805 and
13 806 are a letter on Stephens, Inc. letterhead dated
14 March 7, 1985 from Gene Wilborne, vice president and
15 manager public finance department regarding the
16 Arkansas State Police communications system lease,
17 and it is addressed "Dear Colonel Goodwin."

18 Mr. Goodwin, have you seen this document
19 before?

20 A I'm sure I have. What I probably did with
21 that document is furnish it to the commission with a
22 copy to David Mosley.

1 Q Are you familiar with Mr. Wilborne?

2 A I am now. I know him. I don't think I
3 knew him in 1985.

4 Q The first paragraph of this letter on page
5 17805 reads "we understand the state police is
6 considering the financing of a communications
7 system. After reviewing the proposed plans with your
8 staff, discussing financing options with counsel, and
9 meeting with key legislators, we are pleased to
10 present this letter proposal."

11 Had representatives of Stephens, Inc. met
12 with staff of the Arkansas State Police prior to
13 March 7, 1985?

14 A Not to my knowledge.

15 Q Does this document refresh your
16 recollection as to whether Stephens, Inc. had
17 contacted the Arkansas State Police regarding the
18 financing of the new radio system before the
19 commission formally requested proposals from
20 underwriters?

21 A It is dated March 7th, so that would be
22 prior to the similar one submitted by Hutton, Lasater

1 and Raney. Both of those would have been prior to
2 the date asked for by the commission.

3 Q How old was the radio system that the state
4 police were using in early 1985?

5 A Probably from 1950.

6 Q Were there problems with that system?

7 A I think it was estimated that we had
8 coverage in 30 to 35 percent of the state. The new
9 system should have brought it up to a minimum of 90
10 percent coverage 90 percent of the time.

11 Q How high a priority did the state police
12 give to replacing the old system?

13 A Probably the highest priority that I'm
14 aware of that has ever occurred in the state police.

15 Q In your mind, was the decision regarding
16 which supplier of a communications system to choose
17 more important than the decision of which
18 underwriters would finance the acquisition?

19 A I think it was more important to our
20 personnel because they knew more about equipment than
21 they knew about the funding process. They were
22 familiar with all the vendors, the major vendors. I

1 would say the priorities by employees would have been
2 much more so on the equipment side.

3 Q Did the supplier of the equipment stand to
4 make more money from that contract than the
5 underwriters stood to make from the underwriting
6 contracts?

7 A I don't think there is any doubt about it
8 that they did.

9 Q That who did?

10 A That Motorola made more money. That's my
11 opinion. If I'm not mistaken, Hutton, Lasater and
12 Raney made something like 2-1/2 percent, for a total
13 of between 750- and \$800,000 between the three of
14 them.

15 I'm going to have to back up and say I'm
16 not positive about that, but that's what I recall.

17 MR. O'CALLAGHAN: Mr. Feuer, not that I
18 mind you asking about how much Motorola was made, for
19 the interest of expediency, I'm curious about the
20 relevance of how much they paid the person to do the
21 equipment versus the underwriters has anything to do
22 with what we are looking at.

1 MR. FEUER: I think maybe my next question
2 will bring that out.

3 BY MR. FEUER:

4 Q Did the Arkansas State Police undertake a
5 competitive bidding process with respect to choosing
6 the vendor for the equipment?

7 A No.

8 Q Why was that?

9 A No other communications company could
10 furnish a statewide system. Motorola was the only
11 one that would have been in a position to bid for a
12 statewide communications system. It was determined
13 to be a one-source item.

14 MR. O'CALLAGHAN: "One-source" meaning they
15 are the only people who had the capability to do it?

16 THE WITNESS: Absolutely.

17 BY MR. FEUER:

18 Q In your mind, was the process of choosing
19 the underwriters for the bond offering a competitive
20 process?

21 A As far as I know, it was a competitive
22 process. I know how it started and how it ended up.

130

1 I would say it was a competitive process, yes.

2 MR. FEUER: I have no more questions at
3 this time.

4 MR. O'CALLAGHAN: I have a couple
5 follow-up, and hopefully we will be on our way soon.

6 EXAMINATION

7 BY MR. O'CALLAGHAN:

8 Q I just wanted to make clear, before I said
9 on the record that Roger Clinton was arrested in
10 August of 1984, and I was wrong on the newspaper
11 account that appeared on October 30, 1986 in the
12 Arkansas Democrat. There is an article entitled
13 "White discloses basis of charges Clinton lying."
14 DKSJ 026027 is the Bates number. Just so you know
15 where I got that from.

16 A Okay.

17 Q I would like to show you a document
18 Mr. Feuer just showed you. It is the proposal to the
19 Arkansas State Police for a communications system,
20 Stephens, Inc., investment bankers. I would like to
21 direct your attention to the cover page. I have
22 given you a copy with a highlighted portion on it.

1 The second paragraph there reads "described below is
2 what Stephens, Inc. considers to be the most feasible
3 approach to obtain the necessary communications
4 system considering legal, political and financial
5 constraints. We have been advised the funds with a
6 bond issue would require both legislation and a test
7 case. Therefore a lease format is recommended as no
8 test case would be required. The financing could
9 proceed with appropriate legislation as outlined
10 below."

11 With regard to the date of this proposal,
12 the March 7th proposal, do you know whether anyone at
13 Stephens, Inc. had been working in coordination with
14 anyone in the Governor's office with regard to
15 proposing legislation to authorize financing of the
16 state police radio system?

17 A I don't have any knowledge that anybody
18 did, including Stephens.

19 Q I would like to show you another document.
20 It bears Bates stamps DKSX 017843 through DKSX
21 017853. The first page is a cover letter, Mitchell,
22 Williams, Selig, Jackson & Tucker letterhead, dated

1 March 8, 1985, the next day. It is addressed to
2 Mr. Sam Bratton, the office of the governor, re:
3 State police financing bill.

4 "Dear Sam, enclosed is an original and
5 three copies of an amendment which will substitute
6 the language of the bill we discussed over the phone
7 today with the language of the existing bill. Please
8 review the amendment and let me know whether you have
9 any questions. With best regards, I am cordially
10 yours" and this is by John Selig.

11 Is Mitchell, Williams, Selig the firm that
12 Ms. Ritchey was working for?

13 A Did what?

14 Q Was Mitchell, Williams, Selig the firm Anne
15 Ritchey worked for?

16 A To my knowledge, that's who she worked for.

17 Q Attached to this is an amendments blank
18 long form, which I think has a draft of an act
19 authorizing the leasing of communications equipment
20 for the Department of the Arkansas State Police,
21 providing for the payment and security of the cost of
22 equipment and for other purposes."

1 Did you know in and around March 8th that
2 the Mitchell, Williams firm had been in contact with
3 the governor's office about drafting legislation for
4 the police radio --

5 A No, I had no reason to know that.

6 Q I showed you a document earlier, minutes of
7 a commission meeting where Ms. Ritchey was in
8 attendance with members of the Raney/Hutton/Lasater
9 firms with Mr. Drake and others. Do you recall
10 whether or not Ms. Ritchey worked with those
11 individuals toward their efforts to secure the bond
12 underwriting contract?

13 A I didn't remember that they worked together
14 at all, I think, until you showed me the document. I
15 am still not quite sure what the relationship is
16 there. I guess, to answer your question, no.

17 Q If you don't know, you don't know.

18 A I don't know.

19 Q Did you talk with the other commissioners
20 about how they came to choose which underwriting firm
21 the police department would enter into a contract
22 with?

1 A I don't recall talking to them, but
2 individually I may have.

3 Q Do you recall anyone telling you that their
4 decision was largely based on Mr. Mitchum's
5 presentation?

6 A I think that was commonly known, that they
7 looked to Mr. Mitchum to tell them about the document
8 they were looking at.

9 Q They relied on his advice and presentation?

10 A Yes.

11 Q Did Mr. Mitchum have a relationship with
12 Governor Clinton at the time?

13 A I don't know what kind of relationship they
14 had.

15 Q Do you know if they knew each other?

16 A I'm sure they knew each other. Everybody
17 knows each other. Johnny Mitchum has a brother that,
18 in all probability, was a state representative at
19 that time.

20 Q Was his name Tommy Mitchum?

21 A Yes. So I know that Bill Clinton knew both
22 of them, but to what extent, I don't know.

1 Q Do you know if Mr. Mitchum knew
2 Mr. Lasater?

3 A I know he did.

4 Q How do you know that?

5 A It doesn't have anything to do with the
6 case.

7 Q Just how they knew each other is relevant.

8 A I can't tell you what year it was, but I
9 think it was 1986, Tommy Mitchum invited me to go on
10 a weekend trip to some city, some town in Mississippi
11 that the Arkansas Razorbacks were playing football in
12 that weekend. I made some excuse not to go. I don't
13 remember what it was.

14 One fellow on my staff said if you are not
15 going, do you care if I go, and I said I don't care.
16 He went. Without my knowledge or his knowledge, it
17 was Lasater's plane they went on. Tommy Mitchum did
18 know Lasater.

19 Q So, Tommy knew him --

20 A But how or what relationships they had, I
21 don't know.

22 Q Do you know if Mr. Lasater ever gave

1 campaign contributions to Tommy Mitchum?

2 A No, I don't know.

3 Q That's all you know about the relationship
4 between the two of them?

5 A That they know each other, and that's how I
6 know they know each other.

7 MR. FEUER: I am a little bit confused.
8 From that you know that Dan Lasater and Tommy Mitchum
9 know each other?

10 THE WITNESS: Tommy Mitchum was inviting
11 people to fly on Lasater's plane.

12 MR. FEUER: Do you know whether Lasater and
13 Johnny Mitchum knew each other?

14 THE WITNESS: No, I don't.

15 BY MR. O'CALLAGHAN:

16 Q Did Johnny Mitchum's firm, the
17 commissioner, did his business do any business with
18 Mr. Lasater's companies?

19 A I have no idea. I don't know.

20 MR. O'CALLAGHAN: I don't believe I have
21 any other questions at this time.

22 MR. FEUER: I think I have one question.

EXAMINATION

BY MR. FEUER:

Q Who appointed Johnny Mitchum to the State
Police Commission?

A I believe Frank White appointed him.

MR. FEUER: That's all I have.

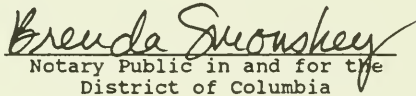
(Whereupon, at 5:50 p.m., the deposition
was concluded.)

THOMAS L. GOODWIN

CERTIFICATE OF NOTARY PUBLIC & REPORTER

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I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.


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